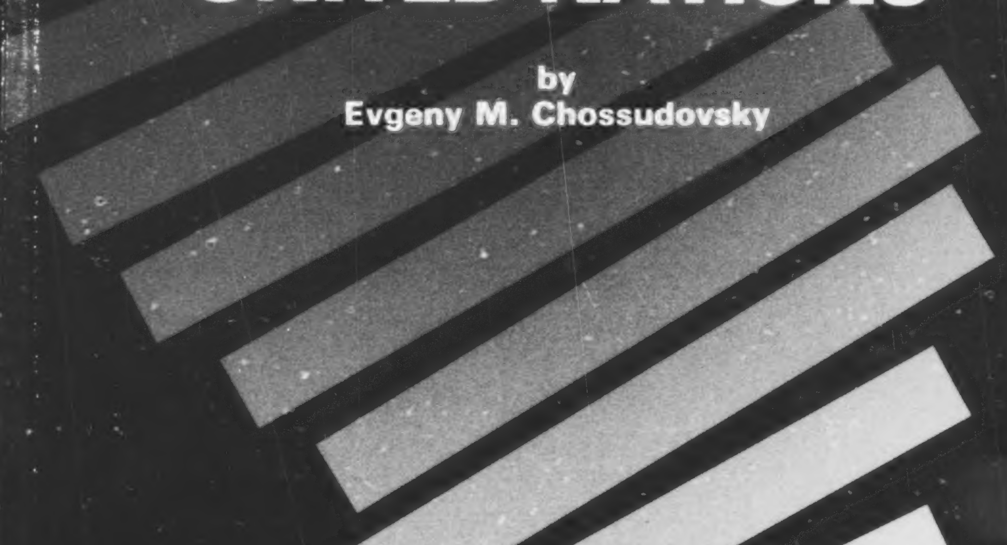
«EAST-WEST» DIPLOMACY FOR ENVIRONMENT IN THE UNITED NATIONS

by
Evgeny M. Chossudovsky



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"EAST-WEST" DIPLOMACY
FOR
ENVIRONMENT IN THE UNITED NATIONS:

"The High-level Meeting within the Framework of the ECE on the Protection of the Environment"

A Case-Study

by
Evgeny Chossudovsky

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This study is dedicated to the memory of Professor Gunnar Myrdal, my revered chief and fatherly friend. As first Executive Secretary of the Economic Commission for Europe (1947-1957) he gave shape to this United Nations body and indefatigably laboured for the re-establishment of co-operation among countries composing the ECE region.

A kindly yet firm leader, Myrdal instilled in the hearts and minds of all those who had the privilege of working under his guidance the true spirit, motivation and essence of an impartial and independent international civil service.

In his address on the occasion of ECE's twentieth anniversary he said: "Every time you stretch yourself to reach agreement on co-operation over the boundaries, even on a small matter, you are making a contribution to the peace of the world."

E.C.

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PREFACE

It gives me great pleasure to present here the results of the case-study made by Dr. Chossudovsky, a Senior Special Fellow of the United Nations Institute for Training and Research (UNITAR), on the process of a regional United Nations Conference dealing with a major transboundary problem in an East-West setting. As UNITAR is currently involved in the preparation of the economic and social history of the United Nations, Dr. Chossudovsky's investigation is, indeed a significant contribution to that undertaking. The systematic and critical record of salient events in the life of the United Nations is a valuable source from which lessons can be learned and conclusions drawn that may prove instructive for the future.

The documentary material and direct evidence assembled and analysed by the author in some detail throw light on how a qualitative improvement in the relations between United Nations Member States having different economic, social and political systems may be brought about in specific sectors. The publication of the study is therefore timely at the present juncture when ever-growing interdependence in terms of both common perils and opportunities seems to promote new thinking and fresh approaches to problem-solving at the international level, and has already visibly attenuated the elements of confrontation in East-West relations, thereby exerting a positive influence on the performance of the United Nations.

Dr. Chossudovsky's study provides also a convincing refutation of the alleged "poverty of multilateral conference diplomacy", an expression used by a critic recently. Indeed, it demonstrates the ability of such United Nations bodies as the Economic Commission for Europe (ECE) to tackle in an effective manner major global problems with regional dimensions and to harmonize national interests through international co-operation.

In the course of the "general debate" at the "High-level Meeting within the Framework of the ECE on the Protection of the Environment" held in November 1979, it was inferred that the Meeting could serve as a model for similar meetings not only in other sectors within ECE's purview but also in other regions of the world. This gives another special value to Dr. Chossudovsky's study.

The author is particularly qualified for the task he undertook. He has extensive experience as a practitioner who has been involved in the management and conduct of United Nations meetings, and, using Gunnar Myrdal's term, as a "participating observer" of conference diplomacy in ECE and UNCTAD, the two United Nations bodies to which he was attached over many years. East-West relations were from the beginning in the forefront of his research interests.

The views and conclusions contained in this study are the responsibility of the author and do not necessarily reflect the opinions of the Board of Trustees or officials of UNITAR. Although UNITAR takes no position on the views and conclusions of the authors of its studies, it does assume responsibility for determining whether a study merits publication.

Michel Doo Kingué
United Nations Under-Secretary-General
and Executive Director of UNITAR

FOREWORD

It gives me pleasure to write a foreword to this well-documented study of an important event in the history of the Economic Commission for Europe. I observed the unfolding of the process of the "High-level Meeting within the Framework of the ECE on the Protection of the Environment" from the vantage-point of my country's Foreign Ministry in Vienna. I was not only impressed by the thoroughness of the preparatory phase, but I was also very much aware of the far-reaching political importance of the High-level Meeting and the subsequent implementation of its decisions: the Convention on Long-range Transboundary Air Pollution and the Declaration on Low- and Non-Waste Technology and Re-utilization and Recycling of Wastes. There was no doubt in my mind even then that it was a truly path-breaking process in UN-related conference diplomacy, involving several sets of interactions which the study's author has sought to disentangle. He has done so by a systematic and in-depth analysis of the documentation and the complex, protracted negotiations which finally resulted in the convening of the Meeting. He then proceeds to analyse the implementation phase of the decisions. It was high time that a study of this kind was undertaken, and I am glad that it was carried out by someone with extensive first-hand experience "from the inside".

Detailed empirical research often leads to new and unexpected insights and discoveries. As a professional diplomat I — and I dare say many other colleagues — have come to the conclusion that there can be no rigid separation between the unilateral, bilateral and multilateral forms of diplomacy. The growing interdependence between the various components of world society has led to a constant interaction if not a symbiosis of these three forms. Each of them partakes of the elements of the other two.

As an international community consisting of upwards of 160 sovereign nations, we have for various reasons, including narrow self-interest and short-sightedness, not yet found the optimal combination of these forms of diplomacy, perhaps because there is no such thing as an a priori *optimum in this regard. This does not however justify the assertion of a "crisis of multilateralism". What is true is that the three forms of contemporary diplomacy are more often than not inadequate, both individually and collectively, to face up to some of the present-day problems. While the three forms are ever more intertwined, it is increasingly obvious that for certain issues the multilateral approach must predominate. What is important at this juncture is the universal acknowledgement that, without exception, both conflicts and differences between States must be solved by political and diplomatic means. The High-level Meeting points to one way in which this can be achieved in the management of the "regional portion" of what may well be the major "non-military" threat facing mankind, i.e. the maintenance of the* *ecological balance through sustained political will, pooling of knowledge and experience, the adjustment of national interests and institutionally based, binding regulations.*

The author shows the considerable complexity of the preparatory work for the High-level Meeting in which individual governments, subregional groupings, the Economic Commission for Europe and its secretariat became involved through almost daily contacts over a lengthy period of time. The role and influence of a parallel but quite distinct dialogue, namely the CSCE follow-up process, has also to be borne in mind. Without the Helsinki Final Act there might not have been either the original Soviet proposal for high-level conferences or the successful High-level Meeting.

Already when watching the process from Vienna, I was impressed by the contribution of the ECE secretariat to the preparatory phase, both in substantive and organizational terms. In this context special mention must be made of the guiding light of Professor Janez Stanovnik, the former Executive Secretary of the ECE, who was one of the leading protagonists in this undertaking. Despite the slow pace at which the process evolved, the right and proper division of labour -- government experts, diplomats and the secretariat — was arrived at, as well as the readiness to harmonize policies and to accept a legal, regulatory régime managed by an effective piece of international machinery: the Executive Body for the Convention. However, despite the 1979 Convention and its subsequent protocols, the overall environmental situation is still a cause for great concern.

The author of the study makes the point that although no similar high-level meeting has been held "within the framework of the ECE" in other sectors, the first such meeting seems to have had various salutary effects, such as a growing recognition of the need for a measure of regionwide harmonization of sectoral policies, which would proceed alongside the various subregional integration processes now gathering momentum in Europe.

Gerald Hinteregger
Executive Secretary
Economic Commission for Europe

AUTHOR'S NOTE

The author was able to write this study only thanks to the support from various quarters.

In the first instance he is deeply indebted to the Fonds National Suisse de la Recherche Scientifique *for its interest in the problem area and generous financial assistance in connection with both the carrying out of the investigation and with its publication, and for its sympathetic patience and understanding.*

Mr. C. Lopez-Polo, Director of ECE's Environment and Human Settlements Division, gave access to the Division's archives and was always ready to answer queries and elucidate particular points. Ambassador O. Graham (who as a senior member of Norway's Permanent Mission had played an active part in the preparation for the High-level Meeting), Mr. Arne Tollan and Mr. Peter Sand — the three successive holders of the post of Chief of the Air Pollution Section — spent much time in assisting the author to comprehend the way in which the Conference process, including its implementation, unfolded. Mr. Sand was particularly helpful in enabling the author to bring the study up to date.
Ms. E. McCullough, the Division's editor, prepared the index and provided guidance through the massive and complex documentation, as did members of the staff of ECE's Documentation and Meetings Unit attached to the Office of Executive Secretary; they also supplied much useful information on detailed organizational, administrative and financial aspects of the High-level Meeting.

The following persons were good enough to go over and evaluate the study (all but one in the form of written comments):

Mr. G. Biriyukov, former Deputy Executive Secretary of the ECE;

Mr. Alain Clerc, Deputy Director, (Swiss) Federal Office of Environment, Forestry and Landscape;

The late Dr. Daniel Frei, Professor of Political Science, University of Zürich;

Mr. Victor-Yves Ghebali, Professor, The Graduate Institute of International Studies, Geneva;

Mr. Edmond Janssens, former Director of ECE's Energy Division;

Mr. C. Lopez-Polo, Director of the Environment and Human Settlements Division;

Dr. Volker Rittberger, Professor of Political Science, University of Tübingen; and

Dr. Dieter Ruloff, Professor of Political Science, University of Zürich.

Their valuable observations were carefully considered by the author.

Miss Anne Goulder, formerly Assistant Secretary of UNCTAD's Trade and Development Board, went over the final text, with its many changes, excisions and additions, and prepared it for printing.

Mrs. M. Huchard, of the European Office of UNITAR, and Mrs. M. Baechle, processed a difficult manuscript with care and dispatch.

Thanks are due to Mr. Hans J. Geiser, Special Adviser for Training and former Chief of the European Office of UNITAR, for his co-operation in elaborating the original research project and in submitting it to the Fonds National Suisse de la Recherche Scientifique *on behalf of UNITAR, and to Mr. Marcel A. Boisard, present Director of the Office, without whose firm yet gently applied pressure and assistance during both the writing and the evaluation period, this book would never have been completed or published.*

The author wishes to express his deep gratitude to Mr. Michel Doo Kingué, UN Under-Secretary-General and Executive Director of UNITAR, for encouraging his research on UN's role in co-operation between countries having different economic and social systems, and for writing the Preface; and to Mr. G. Hinteregger, UN Under-Secretary-General and Executive Secretary of ECE, for his interest in the study and for his Foreword.

In keeping with the customs and traditions of the international civil service, the study is written in a deliberately detached and circumspect manner, with due regard to the confidentiality of informal and private consultations and negotiations between representatives of ECE Governments. The author regrets therefore that he could not follow the suggestion of one of the eminent specialists who assessed the study, to "personalise" his narrative. Even though he is very much aware of the monograph's rather "bureaucratic" presentation, the author hopes, nonetheless, to have shown that it is possible to write a meaningful in-depth study relying almost exclusively on UN documentation.

Lastly, the author should point out that this investigation is above all concerned with the motive forces, modalities and structures of a UN diplomatic conference process rather than with its substance, i.e. the protection of the environment, in itself an exceptionally and increasingly urgent and challenging concern of the international community. He has no expert knowledge in this field, but hopes that thanks to all the help and advice received from persons who do possess that knowledge, his treatment of the substantive side of the High-level Meeting is, by and large, accurate. In any case, it goes without saying that it is the author alone who bears the final responsibility for any error or omission as well as for his judgements and conclusions.

LIST OF ABBREVIATIONS

CANSAP	Canadian Atmospheric Network for Sampling Air Pollutants
CSCE	Conference on Security and Co-operation in Europe
CMEA	Council for Mutual Economic Assistance
EB	Executive Body
ECA	Economic Commission for Africa
ECE	Economic Commission for Europe
ECLAC	Economic Commission for Latin America and the Caribbean
ECWA	Economic Commission for Western Asia
EEC	European Economic Community
EFTA	European Free Trade Association
EMEP	Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe
EPC	European Political Co-operation (European Community)
ESCAP	Economic and Social Commission for Asia and the Pacific
FAO	Food and Agriculture Organization of the United Nations
GEMS	Global Environmental Monitoring System
IEB	Interim Executive Body
ILO	International Labour Organisation
IMO	International Maritime Organization
LNWTRRW	low-and non-waste technology and re-utilization and recycling of wastes
LRTAP	long-range transboundary air pollution
MAB	Man and Biosphere Programme
NADP	(United States of America) National Atmospheric Deposition Programme
N and N's	Neutral and Non-Aligned countries (in Europe)
NO_x	nitrogen oxides
OECD	Organisation for Economic Co-operation and Development
R and D	research and development
SAEP	Senior Advisers to ECE Governments on Environmental Problems
UN	United Nations
UNCLOS	United Nations Conference on the Law of the Sea
UNCTAD	United Nations Conference on Trade and Development
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNITAR	United Nations Institute for Training and Research
WHO	World Health Organization
WMO	World Meteorological Organization

INTRODUCTION

CONFERENCE DIPLOMACY: ITS ROLE IN EAST-WEST RELATIONS

Concepts and definition[1)]

Diplomacy is traditionally defined as "the management of international relations by negotiations; the methods by which these relations are adjusted and managed by ambassadors and envoys; the business of the art of the diplomatist".[2)] The term of negotiation can broadly be defined as "the sum total of talks and contacts intended to solve conflicts or to work towards the common objectives of the parties involved". Negotiation has increasingly become a "process in which explicit proposals are put forward ostensibly for the purpose of reaching an agreement on an exchange or on the realization of a common interest where conflicting interests are present".[3)]

Multilateral diplomacy is, of course, a relatively recent form of dealings as between sovereign nation States. In the international community, as presently structured, intergovernmental co-operation with an "operational" content still proceeds predominantly between a limited number of partners on the basis of a careful matching of material needs and interests, arrived at mainly through bilateral or, in some cases, multipartite as distinct from multilateral negotiations.

The ever growing internationalization of social and economic activities of States, however, has not only spun an ever denser web of interdependence but has also brought to the fore common problems which cut across both the politico-ideological divide and the developmental gap since, manifestly, they can be tackled in an effective manner solely through some sort of joint action and management by the Governments principally concerned or, at the very least, call for either concerted or mutually consistent policy measures based on a reciprocal sharing of the widest possible knowledge of all the international facets, interlinkages and repercussions of the given issue area.

The problem which is increasingly facing the international community, therefore, is not one of multilateralism versus bilateralism but the need for an appropriate and realistic "mix" between these two forms of international interaction but also and possibly most importantly, *their integration with action at the unilateral, i.e. national level.*

Just as bilateral diplomacy possesses its own gradually evolved instrumentalities, procedures and customs, multilateral diplomacy had to fashion, over time, its own institutional modalities. While it is conceivable and may soon be practicable to conduct multilateral diplomacy with the help of advanced communication techniques and even in part without the need for the actors to come together physically[4)], its principal manifestation is what is usually termed "conference diplomacy" or, more pithily, "diplomacy by conference".[5)]

Conference diplomacy can be defined as the management of diplomatic contacts, deliberations and bargaining processes between a significant number of sovereign States by means of *ad hoc* or periodic conferences of duly accredited government representatives serviced either by an *ad hoc* or a permanent secretariat, usually international in character and composition. Historically, conference diplomacy stems from *ad hoc* multilateral gatherings of governors, princes and kings convened in order to supplement purely bilateral talks.6)

In the measure that matters which were of common concern to a significant number of sovereign entities emerged and called for continuing and systematic attention by the Governments, arrangements had to be made for the implementation of the conclusions reached at the meetings. In some cases recurrent meetings were necessary to review progress. Thus the need arose to establish certain multilateral administrative structures and unions of a continuing nature functioning in such fields as transport and communications as, for example, the European Danube Commission and the Universal Postal Union. These bodies were the early precursors of various other international organizations especially those of an intergovernmental nature, as known today.

Professor Gunnar Myrdal defined an intergovernmental agency essentially as a body providing a matrix for the conduct of national policy. It is the multilateral conference of governmental representatives, endowed with the requisite rules of procedure (which, of course, cover the adoption of an agenda) to ensure purposeful and orderly proceedings, which furnishes the main conduit to this end. This particular form of dealings between Governments enables them to align, adapt or adjust, *if they so wish,* their several national policies on particular matters of international import, through a parliamentary forum-type discussion, based on an exchange of information and of views which leads to conclusions usually in the form of permissive, yet frequently normative guidelines such as resolutions and recommendations.

The principal, if not the unique *raison d'être* of the international organization in question is to prepare for, to service and implement the decisions of the conference, be it *ad hoc* or recurring. The various procedures, arrangements and working practices, both formal and informal, can be said to supply the life-blood of conference diplomacy.

The more intricate, complex and specialized the network of multilateral dealings between States became—referring here especially to the situation as it evolved at the end, but mainly after the Second World War—the greater became the need to develop different *types* of conferences.

Categories of intergovernmental conferences

The purpose of the present case-study is to examine the possible typological significance of a particular regional conference process in the context of a distinct field of inter-State relations.

In order to identify a conference process in the over-all system of contemporary conference diplomacy, it might be helpful to distinguish its main categories which have crystallized over the years and have led to a kind of conference typology.

(1) To begin with, a distinction is made between conferences that are convened on an *ad hoc* basis and those that are held periodically (usually at regular intervals). *Ad hoc* or special conferences are originally intended to be held to deal with a particular question. Some may ultimately give rise to further and possibly even periodic meetings depending on the nature of the conclusions

reached. Such *ad hoc* meetings may in some cases be convened directly by the interested Governments as autonomous events, i.e. without a permanently functioning administrative structure. However, such special conferences can also be, and are in fact, held from time to time under the auspices or within the framework of established international organizations.

(2) It is customary to distinguish between

- (*a*) Gatherings of Heads of State or Government ("Summit meetings");
- (*b*) Gatherings of Ministers for Foreign Affairs or of Ministers responsible for the questions under consideration; and
- (*c*) Gatherings of appropriate officials usually of senior though varying rank who are designated by Governments as their representatives.

(3) Intergovernmental meetings may be distinguished by their functional scope as well as their purpose and character. First of all, they fall within two broad categories, i.e.

- (*a*) Intergovernmental meetings concerned with political; and
- (*b*) Those with "extra-political" matters (e.g. subjects pertaining to economic, social, humanitarian and related fields).

(4) Intergovernmental meetings can further be differentiated in terms of their stated purpose. A conference may be convened

- (*a*) Mainly to exchange information and views on a particular problem, usually of an emerging nature;
  or
- (*b*) To examine certain international questions with a view to concerting, to the maximum extent possible, governmental views, and agree a common policy declaration thereon;
- (*c*) A conference may also be called expressly to elaborate and sign an international instrument of a mandatory character, such as a convention. The latter type of conference is usually described as a "diplomatic conference" which implies that its participants are plenipotentiaries, i.e. duly authorized by their respective Governments to negotiate and sign the instrument or instruments, as required.

A diplomatic conference provides the formal setting for the adoption of the most effective type of multilateral decision at governmental level that can be arrived at through an intergovernmental conference process, i.e. a decision embodied in a legally binding instrument partaking of the nature of a treaty.7)

However desirable a widening of the scope of a legal regulation of international links may be, only a rather limited number of problems are both suitable and sufficiently mature to be dealt with by means of binding instruments. Besides not all treaties that have been signed have been ratified or fully implemented. Many international problems require, above all, the enunciation of policies, both national and collective. Therefore any dogmatism in determining a "rank order" of the various types of intergovernmental conferences should be eschewed. What matters is that the political level of representation and the nature of the end-result of the conference process should be such as to be the most appropriate to the nature of the matter under discussion in terms of its impact on the pertinent national and collective decision-making. It is the actual degree of international co-operation that results which matters most.

Intergovernmental meetings or conferences can also be classified according to the scope of their participants. First of all, a distinction should be made between "global" or "world" conferences on the one hand and "regional" conferences on the other. Meetings of Governments of States members of subregional groupings of various kinds, especially those endowed with integrative functions of the economic and related activities of, and dealings between, largely homogeneous partners, have to be distinguished from regional conferences bringing together all or virtually all States belonging to a particular geographic area irrespective of differences as between their internal, political, economic and social systems. As a rule, the purpose of the latter kind of gatherings is not to integrate, but to seek to find collective solutions to common problems and develop co-operative interactions. Whenever possible, such meetings endeavour to concert, harmonize and co-ordinate certain aspects of policies of participating States, whatever their internal system. It must be pointed out, however, that although some important broad strategies for collective action have been elaborated through conference diplomacy, the effectiveness of co-ordination of national policies even as between States with homogeneous social structures leaves much to be desired. One of the main objectives of the present investigation is to ascertain how conference diplomacy could be strengthened so as to ensure more tangible results in terms of international policy-making.

Conference diplomacy in the United Nations

Since the present study is focused on a specific East-West Conference process within the framework of the Economic Commission for Europe (ECE), the main concern here is with aspects of conference diplomacy as it has evolved within the United Nations system.

The principal feature of UN conference diplomacy is its globally embracing character. At the beginning universality remained an aspiration. Now, as newly emerging States have adhered to the Organization the United Nations can be said to have attained virtual universality.8) While the periodic meetings of UN bodies are open to all States members of the Organization, invitations to special world conferences are addressed, as a rule to all States members of the UN system of organizations, thus enabling practically all existing sovereign entities to participate.

It is important to note that even regional meetings convened under the auspices of the United Nations can be said to be held in a universal setting because States outside the region have usually the right to attend in an observer or consultative capacity. Besides such meetings are expected not only to report to a principal UN organ so that the total membership is kept informed, but to be aware of the interconnections between regional and global problems.

As the activities of the United Nations and of the United Nations system multiplied and diversified, with the substantive emphasis being increasingly placed on development issues, it was felt that the "statutory" meetings of the UN (i.e. the regular or even "special" sessions of its standing bodies) did not suffice to deal with the many serious problems facing the international community, some of which were new and unexplored. Conferences, most of them of a global character, grew in number and in duration and tended to be more specifically issue-oriented.9) This trend was also due to a growing realization that the United Nations should not only be used for deliberation but also for the negotiation of programmes of action in various fields. It was felt that in some cases such negotiations could best be conducted in the context of conferences focused on specific subjects. As a result, conference diplomacy (and, incidentally, the officials serving it) had to specialize also. One began to speak of conference diplomacy of development, just as one might single out a distinct branch of conference diplomacy on the law of the sea, or a conference diplomacy on questions of armament and disarmament.

Typology of the conference process

Global conferences, *ad hoc* or periodic, UN-based or autonomous, have become an important phenomenon in international relations and international policy-making which call for comparative study. For instance, Professor Rittberger, basing himself on empirical evidence, distinguishes four principal stages of the process as it unfolds:[10)]

(1) Initiation;
(2) Preparation;
(3) Decision-making (i.e. the conference itself);
(4) Implementation (including review and appraisal).

According to this model (1) global conferences, both "action-oriented" and "rule-making", are usually proposed by Governments, and occasionally by a secretariat of the UN system. As a rule the proposal surfaces at one of the regular sessions of a standing body. The *initiation* stage is characterized by a succession of exploratory talks and discussions, sometimes spread over a protracted period, to ascertain whether the issue proposed lends itself for consideration through the conference method and, if so, whether such consideration can be expected to produce significant results.

(2) The *preparatory stage* focuses on identifying and selecting specific aspects or components of the issue which forms the subject of the conference and on marshalling the options for co-operative action at various levels (national, bilateral, subregional, regional, interregional, global). The preparatory stage includes exploration of the kind and range of decisions which might gain consensus at the conference. Procedural questions have also to be settled to meet any particular requirement.

The preparations are entrusted either to an already existing intergovernmental body having competence for the given issue or to an *ad hoc* body. The preparatory stage is of vital, if not decisive importance for the outcome of a conference, especially for an *ad hoc* conference, i.e. whose terms of reference do not provide for its being reconvened. The conference secretariat plays a key role in organizing the preparatory work and indeed guiding the entire conference process.

(3) The *decision-making* stage coincides, at least formally, with the conference itself, though the conference results are sometimes partly or even wholly pre-negotiated.

The complexity of the conference process resulting from differences in the alignment of interests of the participants may render consensus formation difficult, unless that consensus has been, at least in part, pre-negotiated which is not always possible. Ways of promoting consensus formation include the reduction of the number of participants in negotiations through a system of representation of the major geopolitical groupings, including regional groups through subgroups or contact groups, depending on the nature of the issue under consideration. Another method is to promote "depolarization" through avoidance of those aspects which seem too controversial and divisive. This operation should preferably be carried out during the preparatory stage. Consensus may be facilitated through "package-deals" involving mutual trade-offs among the conflicting preferences of the participants.[11)]

(4) As Professor Rittberger rightly remarks, "conversion of programme into action does not occur automatically". Implementation depends on the nature of the decisions taken and the extent of the political will of the participating Governments to see them carried out. Some decisions, be they action-oriented or rule-setting, or indeed a combination of both, provide for the modalities and instruments for their execution. The presence of such provisions is probably the best safeguard that the necessary follow-up action will be taken, particularly if they are specific enough to ensure the necessary degree of monitoring, oversight, review and assessment.

Conference diplomacy has undoubtedly come to stay. Though it is difficult to form a general judgement on their role in international policy-making, it is evident that a number of UN-sponsored world conferences, like the United Nations Conference on the Human Environment (Stockholm 1972), the inaugural United Nations Conference on Trade and Development (UNCTAD) held in Geneva in 1964, the series of United Nations Conferences on the Law of the Sea—to give but a few examples of different types of such conferences—have had a deep impact on international relations.

The broad term "conference diplomacy" applies not only to *ad hoc* or specially (UN-sponsored) convened conferences, but also refers to processes of internationally co-ordinated policy-making through negotiation which takes place at the regular or special sessions of the main intergovernmental bodies of the United Nations system. The main difference between regular and special conference diplomacy is that the latter category tends to focus on emerging issues.[12] It is this latter type and its links with the regular activities of the UN body in question which is of interest here.

East-West conference diplomacy

The above conspectus of a UN-sponsored global and universal conference process is intended to provide a frame of reference for recording, describing, analysing and assessing the significance of the High-level Meeting within the Framework of the Economic Commission for Europe on the Protection of the Environment (Geneva 1979) for the further evolution and possible restructuring of East-West conference diplomacy.

The High-level Meeting is regional in character. The ECE region, covering as it does the whole of Europe, including the USSR, and comprising also the USA and Canada, is of exceptional importance for the system of international relations. The Meeting, having been held within ECE's framework, is directly linked to the world-wide United Nations Organization and must therefore be viewed in a global context. But perhaps the Meeting's major feature is its political East-West setting for East-West conference diplomacy constitutes a distinct form of multilateral interaction "by conference" between States, despite the current political re-assessment of the East-West relationship.

Several examples of East-West conference diplomacy, *held outside the United Nations system,* such as the Four-Power Conferences after the last World War in the political field and the ongoing East-West conference process ushered in by the Conference on Security and Co-operation in Europe (CSCE) in 1972, can be cited. The High-level Meeting, the subject of this inquiry, is an instructive example of a UN-sponsored regional conference within a clear, even if not explicit, East-West context.

East-West or, more accurately, "inter-systems" conference diplomacy, being a distinct branch of conference diplomacy in general, warrants separate consideration and special treatment.

The division of the world into differing systems of political, economic and social organization has become a feature of the post-war international landscape; it represents an important, if not crucial, aspect of the system of international dealings taken as a whole; for the maintenance of world peace and of the very fabric of the world community depends to a very great extent on the future course of the East-West relationship which comprises highly developed industrialized countries, including the major nuclear weapons States.13) East-West diplomacy is therefore faced with the heavy responsibility of devising and facilitating peaceful solutions to the difficulties, differences and conflicts that arise, and of probing fresh opportunities for mutually advantageous co-operation in various fields between the two groups of countries, by means of bilateral contacts and multilateral meetings dealing with the entire range of the relationship. Although the two types of diplomatic dealings should both be conducted in a coherent manner, it is with the multilateral element, i.e. East-West diplomacy "by conference", which is of concern here.

Any type of conference diplomacy, by its very nature, is a slow and arduous exercise. It is intrinsically difficult to negotiate as between a large number of entities with diverse interests, and to hammer out meaningful and effective agreements. Much time, perseverance, mutual tolerance and patience are required to reach an accommodation. In the case of conference diplomacy practised between heterogeneous and politically rival or partially antagonistic partners, these difficulties are compounded even in a regional gathering with a smaller number of actors, particularly at times when the general political environment is inhospitable.

As in conference diplomacy generally it is possible to distinguish between two broad categories of East-West conference diplomacy, one concerned with issues of a predominantly political and security character; and the other concerned with matters which may loosely be described as "extra-political" in nature, such as problems arising in East-West interaction in the economic, scientific, humanitarian and related fields. Also, a distinction should be made between East-West conference diplomacy which is conducted within, and that which is pursued outside the framework of the United Nations.

Because of the "cold war", the instrument of the United Nations was on the whole not used for the convening of conferences specifically devoted to major East-West issues and conflicts of a political or military character. The actors involved preferred to use either bilateral channels or meetings limited to the actors directly concerned, such as the Great Powers. At the same time, the annual sessions of the United Nations General Assembly provided ample opportunity not only for sharp polemics on various contentious matters, but also numerous opportunities for informal contacts and exchanges.

The availability of the United Nations as a "parliamentary" forum for the discussion of such matters, while it did not resolve differences, enabled world public opinion to follow the major political controversies and to judge the underlying arguments. Furthermore, the great number of regularly recurring intergovernmental meetings under the auspices of the United Nations and its system of organizations brought together many officials and experts who were thus "exposed" to the standpoints not only of the "other side", but also to those expressed with increasing insistence by the representatives of the developing countries, including the newly emerging States which had gained political independence.

"Negotiation" of draft resolutions and decisions in the "corridors" led to the interplay of *informal* conference diplomacy between the various geopolitical groupings. The location at United Nations Headquarters in New York and other major UN centres (such as Geneva) of a "multilateral diplomatic corps" i.e. the permanent missions of member countries, appreciably facilitated bilateral interaction of the permanent representatives which differed qualitatively from the conventional bilateral diplomatic exchanges inasmuch as it occurred in a multilateral setting. The constant and almost unavoidable "rubbing of shoulders" of the permanent representatives and their staff at the various United Nations meetings led throughout the entire period of the cold war to numerous personal contacts between Eastern and Western countries which proved exceedingly useful, especially when the political climate began to show signs of some improvement.

The bulk of East-West conference diplomacy in the "extra-political" field proceeded (and still proceeds) within the framework of specialized agencies and bodies belonging to the United Nations system, since most Eastern countries are amongst their members.

A number of UN bodies have carried out activities in the European region. Common features of such bodies as the International Labour Organisation (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), and the World Health Organization (WHO), are that they are all instruments for intergovernmental co-operation in a multilateral framework focused on clearly defined fields; that they form part of a universal and global network of organizations belonging to the United Nations system; and that they are endowed with a regional capability, which, *inter alia,* covers Europe. But the present investigation will be limited to an examination of the nature of East-West conference diplomacy carried forward within the ECE, whose main vocation and overriding task has been and has remained the promotion of region-wide economic and related co-operation.

ECE as a centre and instrument of East-West conference diplomacy

Historically, the cradle of international, including multilateral, co-operation between States is the region, an entity that may be defined as an area with physical, economic and cultural characteristics distinct from those of neighbouring areas. This is particularly true of Europe in its conventional geographic sense, a region characterized by a relatively high degree of social and economic development, by a strongly pronounced complementarity of resource endowment, affinity of economic infrastructures, a high level of technological development, an integrated transport system, and by a closely knit community of history, culture and commerce, as well as a long tradition of technical co-operation.

After the last war Europe became marked by the parallel existence within its confines of countries with different economic and social systems. One of the questions, therefore, which confronted individual Governments belonging to the two groups of countries, as well as the international agencies, having regional programmes in Europe designed to promote multilateral co-operation amongst them, was how to preserve the patent advantages of the region-wide connection through the maintenance of all-European ties despite the political constraints.

The division of Europe into two partially adversary groups of States proved to be an obstacle to region-wide collaboration and at the same time a challenge to keep the lines of communication open, to build bridges, however frail and temporary, wherever this was feasible, to "overarch" existing blocks and to identify common concerns. Viewed in this light and bearing in mind the formidable obstacles the record of the ECE over the years is impressive.

The Commission was established in 1947 as a subsidiary body of the United Nations Economic and Social Council in order (as article 1 (a) of ECE's terms of reference puts it) to "initiate and participate in measures *for facilitating concerted action for the economic reconstruction in Europe, for raising the level of European economic activity, and for maintaining and strengthening of economic relations both among themselves and with other countries in the world*".[14)] From the outset, ECE comprised, in one way or another, virtually all countries of the European region, the authorities of the occupied "zones" as well as the United States of America. Thus it was led, if only because of the composition of its participants (consisting of States of the region, Members and non-Members of the UN alike), to face the task of fostering co-operation between countries with different economic and social systems. Thus, ECE's working organs were from the very beginning focused on the solution of practical problems of general concern arising in particular sectors of Europe's economy, such as the production and distribution of coal and timber, and of inland transport. These activities were derived from the immediate post-war reconstruction needs and carried forward the work done during the final phase of the war by a number of specialized inter-allied bodies, and subsequently from the longer term preoccupations common to participating States. In this way the ECE developed over the years a comprehensive network of co-operative and technical relationships involving the two groups of countries mainly by means of a series of technical and specialized "sectoral" committees (which will be briefly dealt with presently) that is, in the last analysis, through a system of functionally oriented intergovernmental meetings conducted with the aid of a rather novel type of East-West conference diplomacy. During the Commission's formative years (1947-1953/54), which coincided with a period of acute political tension between East and West, Eastern countries took little or no part in the technical committees, though they did consistently attend the Commission's annual plenary sessions (whose discussions were frequently marked by lively polemics). However, thanks in no small measure, if not largely, to the efforts of Professor Gunnar Myrdal, the first Executive Secretary, and of his staff, ECE's technical committees (or Principal Subsidiary Bodies as they were later called) were preserved as *foci* of all-European sectoral co-operation. At the same time, as the ECE secretariat's history of "Three Decades of the United Nations Economic Commission for Europe" (E/ECE/962) puts it, "the vital link between eastern and western parts (of Europe) was maintained, however tenuously, through the annual plenary sessions of the Commission attended by delegates of all participating countries, as well as by the secretariat which systematically reported on the economic situations and developments in the entire region...".[15)]

As from 1954 there was a marked improvement in Eastern participation in ECE's technical activities (which represented the bulk of its work). This was accompanied by the establishment of permanent missions of Eastern European countries in Geneva alongside those of the West. Although, in a wider perspective, this period was marked by a certain relaxation of the most acute state of East-West tension, the ideological, as well as the concomitant institutional division of the continent (notably in matters of security and economic integration) deepened and hardened in many respects.

Early examples of East-West contacts channelled through the ECE were the joint consideration of economic surveys and sectoral market reviews as well as the easing of formalities in European inland transport. Even in the politically deadlocked East-West trade sector (because of the use of trade discrimination) it proved possible to achieve a measure of improvement or even a partial "breakthrough". Thus, in 1953 and 1954 (i.e. at the height of East-West tension) trade consultations were convened by the Executive Secretary after the necessary political clearance and much laborious preparation. A series of bilateral East-West talks, scheduled by the secretariat, within a multilateral framework, were held in private under the aegis of the Commission.16) They gave a demonstrable impetus to a quantitative upturn in East-West commercial exchanges and a noticeable resumption in bilateral trade contacts.

From 1955 onwards some modest though appreciable progress was made, for the first time, in the promotion of East-West exchanges, on a reciprocal basis, of production experience and statistical information through the Commission.

It was during these years that ECE's methods of work and what the secretariat termed its "established practices" were shaped; they throw light on ECE's "style" of East-West conference diplomacy, which evolved and which can be said to be uniquely peculiar to the Commission. "The cornerstone of ECE's management machinery is the two-level programme-formulating and decision-making system. This is anchored on the one hand in the plenary sessions of the Commission and on the other in the annual sessions of the Principal Subsidiary Bodies. A body of well-established practices and procedures provides for the flow—from the Commission to its subsidiary organs—of policy guidance and specific instructions and—in the opposite direction—for the flow of reporting and recommendations. In this closely knit relationship the Principal Subsidiary Bodies carry out, in a semi-autonomous manner, their approved programmes of work in accordance with the Commission's co-ordinative and policy guidance."17)

The quintessence of the functioning of ECE as an apparatus for intergovernmental co-operation between governments, including those with diverse internal régimes, is thus a two-tier system of intergovernmental meetings, each tier having its own characteristic procedures designed to facilitate East-West conference diplomacy whose general aim can be said to consist in maximizing East-West co-operation based on the implementation of sectoral work programmes and in minimizing the difficulties stemming from the divisive and partially antagonistic ingredients of the East-West relationship. This task was not easy, especially during periods of heightened political tension which impinged itself on the technical work done at the level of the Commission's subsidiary bodies despite a deliberate effort on the part of the secretariat to keep the political element to a minimum. Indeed Gunnar Myrdal stated publicly on repeated occasions that disaggregation of broad problems into their components and the consideration of those components by experts made it easier in some cases to "depoliticize" the discussions in the technical committees, meeting in private. In point of fact, the proceedings of ECE's subsidiary bodies have been, on the whole, conducted in a businesslike and sober fashion throughout its existence.

Reference has already been made to the intrusion of political polemics into the proceedings of the annual plenary sessions of the Commission *which are held in public* and where some delegations consider it necessary to put their views on record, especially on certain matters with clear political implications. In periods of a downward movement of the curve of East-West political relations, the polemics obviously tend to assume a sharper tone. By the same token, they become attenuated when the curve moves upward again. It is, of course, not possible to insulate even intergovernmental institutions of an economic nature from the vicissitudes of the political climate. But conference diplomacy as practised within the ECE by most Governments sought at all times to make use even of the smallest improvement in the political conjuncture in order to stress common interests and concerns.

In this context the establishment, during the years 1953-1955, of balanced East-West participation in the work of the Principal Subsidiary Bodies greatly contributed to the changing pattern of discussions at ECE's plenary sessions. In the measure that all-European technical co-operation through ECE's subsidiary bodies developed and became increasingly institutionalized, the review by the Commission of those activities became more thorough and constructive, thereby to some extent counteracting and moderating the debates on politically divisive issues.

The efforts of Governments and also of the secretariat to keep in check and manage the ever present trend towards a political polarization of the Commission's proceedings led to the gradual fashioning of procedures designed to de-emphasize, by institutional means, possible sources of conflict and friction. These procedures imparted a distinct flavour to the peculiar brand of ECE's East-West conference diplomacy. The secretariat's history of the Commission's activities, referred to above, observes that an important feature of ECE's practice established over the years, has been the unwritten rule according to which decisions taken in the subsidiary bodies and with few exceptions at the plenary, are adopted without voting. The underlying idea is that the sponsors of proposals, having tabled and argued them in the plenary do not press for a vote "unless they proved to be generally acceptable, or to agree to such modifications as were necessary to reach unanimity".18) It is at this stage that ECE's conference diplomacy complements the conventional parliamentary procedures of the United Nations by informal consultation and negotiations. At the beginning such negotiations took place in a "group of good offices" with limited membership set up for this purpose during the Commission sessions or through less formal contacts between interested delegations aimed at reaching agreement on generally acceptable texts and co-sponsorship for a formal unanimous adoption. As the various geopolitical groupings became firmly established, this informal negotiation procedure had to be geared, particularly in the case of the more important decisions, to a co-ordination of views within the relevant groups. For instance, since the bulk of the subjects within ECE's competence are adverted to in the Treaty of Rome, a "pre-negotiation" process among the States members of the European Economic Community became indispensable.

Viewed from this angle, the rules and arrangements for the attendance at all ECE meetings of representatives and staff members of the principal intergovernmental subregional integration and international economic organizations functioning in the ECE region — CMEA, EEC, EFTA, and OECD — constituted a vital element of the ECE type of East-West conference diplomacy. Furthermore, the informal negotiations on separate draft resolutions or decisions have finally to be brought together in the shape of a "package" and examined by a contact group having a limited but representative and balanced East-West composition. All these various practices are motivated by the desire of ECE Governments to establish and then "maintain... a consensus spirit and a procedure which is especially important in a region where the concept of majority and minority could be a divisive factor".19) This firmly entrenched procedure was, of course, central to the protracted and complex negotiations which marked the initiation and preparation phases of the High-level Meeting on the Protection of the Environment.

Another feature of ECE's conference diplomacy which derives from a tacit acceptance of the concept of "parity" in East-West economic co-operation, is the practice, also pragmatically arrived at, of observing East-West rotation in the designation of office-bearers. It is of some interest that this acquiescence in the notion of East-West "parity" in the economic domain, despite a heavy voting preponderance of the Western ECE countries, evolved at a time when the West did not hesitate to use its voting strength in the General Assembly of the United Nations, i.e. in the mainly political context of UN's global activities.

Similarly motivated methods of work evolved in the Commission's subsidiary bodies. These procedures have developed their own distinctive style of operation, yet another manifestation of the versatility of East-West conference diplomacy as it functions within ECE. One of those methods has already been referred to briefly. It consists in a strategy aimed "at organizing co-operation on specific problems and issues, as narrowly defined as possible, the solution of which could, by common consent, be usefully sought through joint consideration in the framework of the ECE. ... [E]xperience... has proved the definite advantages and usefulness of tackling economic problems in concrete terms on the expert level rather than in terms of broad generalities and thus, at least to some extent, de-emphasizing the political element...".[20)]

One important institutional consequence of this approach is that the Principal Subsidiary Bodies, on their part, assign various aspects of the problems to their own subsidiary bodies for more detailed examination. These highly specialized bodies are either permanent (e. g. sub-committees, working parties) or *ad hoc* in character (*ad hoc* groups of experts, special meetings, seminars, etc.).

This method of work was used during the preparatory phase of the High-level Meeting on the Protection of the Environment and, though time-consuming, proved its effectiveness in reaching agreement on the precise subjects judged appropriate for consideration at a high level by decision-makers, after sifting through a considerable number of other proposals.

The other distinctive features of ECE's "specialized conference diplomacy", which are described in the secretariat's history of ECE activities[21)] and appear to be relevant in the context of the present case-study, are: the high degree of autonomy delegated by the Commission to its subsidiary bodies, so that if they agree on any matter within their purview they can make their recommendations *directly* and promptly to the participating Governments, i. e. without necessarily first obtaining prior approval by the Commission; the private character of the meetings of the subsidiary bodies (as distinct from the public plenary sessions of the Commission itself) which enables the governmental experts to engage more freely in an exchange of information and views as well as in actual negotiations if required; the procedural informality of the meetings, whereby, for instance, no formal vote is taken, apart from the election of officers, and the agreements reached are incorporated in the report which is then adopted at the conclusion of the meeting; and the involvement of Governments in the substantive preparation of meetings whereby, for example, the Governments especially interested in the solution of a particular problem offer to the ECE, free of charge, the services of eminent specialists to act as rapporteurs. Working singly, as an East-West team, as a "task-force", or through the instrumentality of seminars or workshops, they may carry out substantive work which would have otherwise have to be undertaken by the secretariat or paid consultants.[22)]

A few words should be added here about functions performed by the ECE secretariat (which forms an integral part of the Secretariat of the United Nations) and its head, the Executive Secretary, in the conduct of ECE's conference diplomacy. Apart from preparing for, and servicing, the meetings and ensuring that the necessary follow-up action is taken on the decisions in administrative, organizational and substantive terms, the ECE secretariat and, more particularly, its Executive Secretary, carry out important tasks of a diplomatic nature. Thus, whenever the Commission (or for that matter any of its specialized technical bodies) is seized with a matter on which no immediate agreement can be reached before it is more thoroughly explored, it is customary to invite the Executive Secretary to take certain steps intended to prepare the ground for an agreed decision. These steps may consist in carrying out further substantive work, eliciting the views of Governments, or actually making proposals in his reports and oral statements on how a particular question might best be tackled, what alternative courses of action exist, etc.. On many occasions the Executive Secretary was able, by virtue of his position of an impartial official enjoying the confidence of all Governments, to help steer discussions along constructive lines and at times, after consultations with Government representatives, and with due caution and circumspection, to take certain informal or formal initiatives.

Furthermore the Executive Secretary, in addition to directing the over-all work of the secretariat, is constantly engaged in a multitude of diplomatic duties. In carrying out such duties he usually *combines multilateral and bilateral diplomacy*. It is essential for the head of an international secretariat to be always available to Government representatives, more particularly to the resident heads of permanent missions and, by the same token, to have access to them both at the headquarters of the organization and in their capitals. One noteworthy procedure of conference diplomacy in an East-West setting and with an explicit east-west orientation consists in a standing arrangement whereby the Executive Secretary meets, usually some months before the annual session, with the "Bureau" of the Commission (i. e. its Chairman and Vice-Chairman, who, by virtue of the rotation procedure mentioned earlier, are nationals of an Eastern and a Western country), in order to consult on matters bearing on the preparation for the session.

The question of ECE's political authority

Historically, the working practices of the Commission were tailored to its preoccupation with technical issues and the political low profile of the ECE. Ultimately it was the inadequate level of political relations, especially between its principal member countries which constricted the scope of ECE's activities and inhibited its impact on national policy-making. Thus the ability of ECE to exert any appreciable influence on the solution of the more controversial aspects of East-West relations in the economic field, especially during ECE's early years, was severely restricted.

One conclusion that might be drawn from this state of affairs is that East-West conference diplomacy carried forward in the ECE region under UN auspices in the economic and related domains was destined to remain limited in its effects unless the scope of the programme could be so widened as to encompass not only the study but also the concertation of national policies in certain fields and sectors, including specific operational projects, and the level of its political authority raised, which would have been fully compatible with the Commission's objectives as defined in its terms of reference.[23)]

The predominantly technical nature of ECE's recommendations, and even the legally binding instruments such as the conventions on the regulation of inland transport negotiated and adopted under ECE auspices, did not as a rule, or only rather rarely, require major policy-decisions at the national level. In most cases the recommendations emanating from the subsidiary bodies of the ECE could be implemented at the level of national administrations. Making this point in no way belittles the great usefulness of the Commission's continuing activities in facilitating and regulating East-West exchanges in many sectors under very untoward political conditions. But the fact remains that conference diplomacy conducted through ECE could not raise the Commission's ability to influence and mould national and international economic policies in its region *without a political impulse.*

The ECE secretariat was fully aware of these constraints and sought on several occasions to overcome them by proposing to the ECE Governments major co-operative projects (such as schemes for connecting power-grids between eastern and western Europe). But for want of the requisite political support at the time on the part of all concerned such schemes were blocked or shelved or, at best, moved at a snail's pace. And it was ultimately the reluctance of some Governments to enable the ECE to play a more influential role that prevented any kind of East-West agreement being reached in the Commission on a number of individual governmental initiatives taken during the period of 1956-1962, intended by the proponents to widen the scope of all-European co-operation and to upgrade the ECE's political authority.[24)]

However a measure of progress in this direction was achieved early in 1967, i. e. at a time when East-West relations were showing signs of improvement. In the course of the Commission's twenty-second session (April 1967) the twentieth anniversary of ECE's activity was marked at a special Commemorative Meeting, held *at ministerial level.* The Declaration which was adopted at that Meeting set guidelines for strengthening region-wide co-operation especially in the fields of trade and technology and for evolving new forms of co-operation. It constituted a major political landmark in the Commission's history, for the relatively high political level at which it was adopted gave the green light to the broadening and deepening of the Commission's work by focusing efforts on major priority areas and increasingly dealing with matters having not only technical but also economic policy implications. Somewhat later (at its twenty-fourth session held in the spring of 1969) the Commission agreed on four major over-all priorities, viz., the development of trade; scientific and technological co-operation; long-term economic projections and planning; and *environmental problems.*

This broadening of activity led the Commission to establish in the early 1970s, in addition to its sectoral committees, a number of subsidiary bodies designed to pursue interdisciplinary or "horizontal" approaches to international problem solving. Thus the Senior Advisers to ECE Governments on Environmental Problems (SAEP), one such new horizontal subsidiary, which was to provide the organizational framework, the expertise and the facility for negotiations during the decisive stages of the preparatory work for High-level Meeting, was set up in 1971. The reorientation of the work of the Commission ushered in by the Ministerial Declaration of 1967 was due not only to the extraordinary expansion of production and trade in the region and an unprecedented, albeit uneven technological progress, but also to ever more visible positive changes in East-West relations.

The significance of the CSCE for East-West conference diplomacy

It was not by accident that the Ministerial Declaration of 1967 underlined *the relationship between co-operation and security*. For in so doing, it reflected the early phase of the wider East-West negotiations which were then unfolding and which ultimately resulted in the convening, on 3 July 1973, of the Conference on Security and Co-operation in Europe (CSCE), and its conclusion, on 1 August 1975, with the signing in Helsinki, at the summit level, of its Final Act.

Of interest in the context of the present study, on the one hand, are the diplomatic moves which brought about this major East-West Conference and, on the other, the impact which it had on the ECE. For, without it, the High-level Meeting within the Framework of the ECE on the Protection of the Environment would hardly have taken place.

It was in December 1964 that Adam Rapacki, the Foreign Minister of Poland at the time, proposed at the United Nations General Assembly the idea of convening a conference of European countries to consider questions of collective security on the continent, thus reviving a policy concept which had been adumbrated by the Government of the USSR a decade before. Subsequently the proposal was broadened to encompass not only the notion of security but also that of co-operation. The inclusion of co-operation was first envisaged in the "Declaration on the Strengthening of Peace and Security in Europe" adopted by the Political Consultative Committee of the members of the Warsaw Treaty Organization, meeting in Bucharest in the summer of 1966. Subsequent meetings of the Consultative Committee (Budapest, March 1959; Prague, January 1972) spelled out the two-pronged objectives of the proposed Conference—i.e. security *and* co-operation—in some detail. This dual approach towards East-West negotiations and détente implied a recognition that co-operation cannot develop unless it is linked with security and a relaxation of tensions, an interconnection which had been underlined in ECE's Ministerial Declaration of 1967. This approach was eventually endorsed by all the parties concerned who were to participate in the CSCE, i.e. virtually all countries of Europe as well as the United States of America and Canada.

In the summer of 1972 the Council of the North Atlantic Treaty Organization, meeting in Bonn, agreed to take part in multilateral consultations in Helsinki to prepare, as suggested by the Government of Finland, for the actual Conference.

The process of CSCE's gestation was indeed long and difficult: it took over ten years from the time the idea was first mooted at the United Nations General Assembly until the signature of the Final Act. East-West diplomacy had first to be actively deployed at the bilateral level to settle such divisive key issues as the question of West Berlin, the status of the German Democratic Republic, and the acknowledgement by the States concerned of the existing post-war frontiers. Thus, as Professor Birnbaum observes, "the treaties concluded by the Federal Republic of Germany with the Soviet Union, Poland and the German Democratic Republic, as well as the Four Power Agreement on Berlin, negotiated in the years 1970-1972, cleared the way for more wide-ranging talks on problems of security and co-operation in Europe". 25) Professor Birnbaum rightly considers that the "initiation of these preparatory talks signified a new stage in East-West diplomacy with regard both to form and substance". As long as East-West negotiations had been focused on the participation and normalization of the situation in Central Europe it was most practical and appropriate to conduct them bilaterally or—as was the case in the Berlin talks—within a limited group of directly concerned Governments. In its new phase, the "era of negotiations" opened up vistas that reached beyond the notion of "normalization". Touching as they did upon a great variety of issues, the negotiations envisaged at that stage were of direct concern to a much wider group of nations. Consequently, to a greater extent than before, East-West diplomacy was henceforth conducted within a multilateral framework.[26)]

Indeed the CSCE should not be considered merely as a series of meetings leading up to the adoption of a final document, but also as a *new diplomatic facility*. This facility is intended to be used (as is specified in the final chapter of the Helsinki Final Act dealing with the "Follow-up to the Conference") as a means not only for continuing the dialogue between Eastern and Western countries but for enhancing the co-operative links between them, through agreements on specific aspects of East-West relations covered by the Final Act and negotiated bilaterally and multilaterally, both within the CSCE framework and within that of existing international organizations, especially those belonging to the UN system, making "full use of existing patterns and forms of co-operation".[27)]

The impact of the CSCE on East-West conference diplomacy

The CSCE, its Final Act and the subsequent "Helsinki process"[28)] brought about significant changes in both the *substance* and *form* of East-West diplomacy, and especially in East-West conference diplomacy.

It is, of course, impossible to separate these two aspects. The prospect of widening the scope of East-West co-operation in its various manifestations is, obviously, of primary importance. At the same time the interdependence between the substance of such co-operation and the form of its management should not be overlooked. The primary task of the CSCE-type of East-West diplomacy (of which *conference* diplomacy forms but a part), while acknowledging the reality of existing politico-military alliances, subregional economic intergration groupings and other associations, is to assist the participating Governments in the identification of major region-wide co-operative projects of mutual and common interest whose implementation does not disturb, or interfere with, ongoing intra-Western and intra-Eastern collaboration (assuming that such collaboration is not confrontational). Therefore the region-wide co-operation should *"overarch"*, so to speak, ongoing subregional dealings as well as the continuing systemic divisions (provided these do not run counter to the maintenance of peace and security). In order to be viable such overarching East-West co-operative projects of any consequence must therefore be elaborated in all their details by common agreement, and so must be the methods and forms of their execution.

One distinct procedural feature of the CSCE which influenced, if not determined the *modus operandi* of its own particular conference diplomacy was the *formal promulgation of the consensus principle*. It had to be and was observed during the Conference and in *all* subsequent meetings held as a follow-up to the Conference, by virtue of the adoption of an explicit rule to this effect contained in CSCE's rules of procedure which also applies to all the follow-up meetings.[29)]

The strict observance of this rule led to greater emphasis on intra-group and inter-group consultations with a view to facilitating the elaboration of compromise texts by consensus.

One rather important consequence of the absolute requirement of consensus was the emergence of the smaller neutral and non-aligned countries as a distinct grouping in East-West conference diplomacy as practised in the CSCE and its follow-up. It is worth recording that although, with one exception (Yugoslavia), all countries of this sizeable group represent Western-type societies, it was increasingly acknowledged that in certain situations they could and actually did help bring about consensus through "corridor diplomacy", but, more significantly, by tabling compromise drafts intended to narrow down and ultimately resolve existing differences. These countries, which have come to be known as forming the group of the "N and N's", have sought to continue to play this mediating role during the follow-up of the CSCE, and, more particularly in the course of the long drawn-out Madrid and Vienna meetings of participating States.

One of the reasons for the part which the group of "N and N's" can and does play in the CSCE process and which has been fully acknowledged, welcomed and praised by other participants from both sides, is the fact that the rules of procedure of the CSCE provide for an exclusively technical and ser-vicing secretariat, which by its very mandate, is precluded from taking any diplomatic initiative of its own.

Perhaps the most noteworthy outcome of the Helsinki Conference is that it has established a normative policy- and action-oriented framework for East-West relations whereby the process of implementation is supposed to be based on principles and guidelines, policy objectives and specific recommendations of a practical nature. Yet another feature was a "three-tier" approach to the follow-up based on the expressed resolve of the Governments of the participating States *"to implement fully unilaterally, bilaterally and multilaterally, all the provisions of the Final Act"*.[30] These decisions were bound to affect post-Helsinki diplomatic behaviour, including East-West conference diplomacy as conducted within the CSCE follow-up process, and also within a number of UN organizations, which became involved in the implementation of the conclusions of the CSCE, notably the ECE.

The capacity of conference diplomacy is in the last analysis determined by the ability of Governments, through a system of meetings, not just to listen to each other's verbalizing, but to influence individual and collective "will formation" at the unilateral, bilateral and multilateral levels and to assist the transformation of the political will into coherent, consistent and mutually reinforcing action.

The changes in East-West conference diplomacy brought about by the CSCE-process thus held out promise and expectation of a more purposeful and effective conduct of East-West interactions. Yet, it was clear even to the most optimistic observer that the post-Helsinki situation continued to be unstable and therefore unpredictable. The level of confidence, despite some improvement, remained low. The CSCE had not solved the fundamental question of military security which lies at the heart of the East-West relationship. Several important aspects of "military détente" requiring protracted negotiations were referred to subsequent meetings. Though some important results have been achieved, much remains to be done.

Many other important matters remained unanswered. Certain concepts and formulations adumbrated in the Final Act are open to varying interpretations or are at best ambiguous. As the actual course of the follow-up to the Conference shows, opinions vary as to how and where limits to East-West co-operation should be drawn. Underlying political differences combined with deep-seated and lingering mistrust, were apt, in the absence of a fully functioning global and European peace and security structure, to lead to renewed tension, despite the progress in East-West détente ushered in by the Final Act. Therefore, although the CSCE undoubtedly enriched East-West diplomacy by opening up new potentialities for co-operation, the principal feature which distinguishes East-West diplomacy from other types of diplomatic relations, retained its full validity, i.e. that its prime purpose is to manage the relations between heterogeneous, and partially antagonistic countries and groups of countries with all the consequences which these basic differences imply, including the possible continuance of tensions, misunderstandings, lack of predictability, and differences in value judgements.

Just because the newly emerging East-West diplomacy is predicated on the maintenance of the requisite political will on the part of the Governments, it remains now much more than ever sensitive to, and dependent on, any variations and changes in that will, particularly on the part of the key Signatories of the Final Act.

Repercussions on ECE of the CSCE and its Final Act

The ECE and its secretariat were, of course, closely following the preparations for, and the proceedings of, the CSCE, especially those of its working stage in Geneva (18 September 1973-21 July 1975), at which co-operation in economic and related areas were, *inter alia,* dealt with and detailed agreements hammered out, many of which were of direct relevance to the Commission. Even as early as the summer of 1972, before the opening of the preparatory Helsinki Consultations on 22 November of that year, the Executive Secretary of ECE, addressing UN's Economic and Social Council in July 1972, expressed the hope that the Conference would recognize the vital role of the Commission and assign to it responsible tasks in the future. The Governments were somewhat more reticent, but on the whole positive: in the Recommendations adopted at the preparatory Helsinki Consultations which dealt with "Co-operation in the Fields of Economics, of Science and Technology and of the Environment", it was stated that the CSCE committee responsible for these questions "will in particular take account of the work of the United Nations Economic Commission for Europe". Before the completion of the work of the Helsinki Consultations at the beginning of June 1973, the Commission, at its twenty-eighth session held in the spring of that year, stressed "its readiness to fulfil future tasks that might be requested by its member Governments". In his address to the Economic and Social Council on 6 July, i.e. a few days after the first (ministerial) phase of the CSCE had opened in the Finnish capital, ECE's Executive Secretary referred to the above-mentioned recommendation which was subsequently adopted by the Conference itself. He also expressed the view that the Commission could make an important contribution to the work of the CSCE while that Conference, on its part, could help intensify and widen the scope of East-West co-operation.

On 2 November 1973, the Executive Secretary, in response to an invitation received from the Second Committee of the Conference (to which the subjects contained in the second "basket" dealing with economic and related matters, *including environment,* had been assigned), addressed that body on the activities of the ECE.

In one sense the unexpectedly protracted proceedings of the Conference, placed ECE's work, especially on the more sensitive issue-areas such as the removal of obstacles in East-West trade which also figured on the CSCE agenda, in a state of almost suspended animation. Some Governments were not unnaturally reluctant to move on the ECE plane, so long as these matters remained unresolved in the CSCE at a higher political level. Besides, no final decision had yet been made on the question of setting-up new institutions, as part of the follow-up to the Conference. Meanwhile, the subject of future links between the Conference and the ECE remained one of the salient features at the two Commission sessions which took place while the CSCE was still in progress.31) The Commission, in a resolution (1 (XXXIX)), recognized that the Conference might give a new impetus and open new perspectives for the further activities of the ECE, and acknowledged the need to strengthen the contribution of the ECE to the development of economic, scientific and technological co-operation and of trade *"through consistent action aimed at finding practical ways and means to favour durable and mutually advantageous solutions to economic problems* and the process of peace and security-building in Europe".32)

The Commission requested the Executive Secretary to submit suggestions "concerning the programmes and approaches mentioned above" to the thirtieth session of the Commission in the spring of 1975 (which, as was then anticipated, would be held *after* the termination of the CSCE). The Executive Secretary's report (document E/ECE/875) contained a series of tentative suggestions, pending the conclusion of the Conference, for shaping the main lines of future co-operation within ECE and thereby *adapting it to the new economic and political realities.* The Executive Secretary's proposal that the Commission embark on an adaptation of its work programmes to take account of the new situation foreshadowed a process which proved to be the main vehicle by which the ECE subsequently sought to contribute to the implementation at the multilateral level of the relevant provisions of the Helsinki Final Act. In the customary resolution dealing with the future activities of the ECE (resolution 2 (XXX)) the Commission expressed its belief that "the expected results" of the Conference will give "a new impetus and open new perspectives for a further intensification of economic, scientific and technical co-operation between the countries of the ECE region"; it also invited its Principal Subsidiary Bodies to prepare for its thirty-first session proposals for adaptation of their short- and long-term programmes of work and also asked the Executive Secretary to make his own suggestions "on possible adaptation of... future activities".

The action taken in the course of the plenary Commission sessions which took place during the CSCE, bears eloquent witness to the efforts of the ECE Governments and of its secretariat in anticipation of the conclusion of the CSCE, to gear the work of the organization to the results of the Conference within the Commission's area of competence. Normally it is not usual for a United Nations body to wish to respond in so full and deliberate a manner to the desiderata of an intergovernmental conference convened outside the UN system. However, ECE's behaviour in this regard is not surprising. The Commission, in view of its special vocation as an instrument mainly designed for East-West co-operation, had always to be mindful of the close interconnection between the political environment and the degree of its own effectiveness as an organization. Agreement on a political framework for intensified intergovernmental co-operation held out promise for a better use by the Governments of the potentialities offered by the Commission, particularly since there was virtual identity between ECE's membership and the participants in the Conference.33)

It was, therefore, natural for the Commission and its secretariat to be vitally concerned in the preparations for, and more so in the outcome of, the Helsinki

Conference. At a fairly early stage in the proceedings two matters became rather evident. As the Conference moved towards its close after more than two years' work, it had become clear that there was no consensus on the establishment of any new institutional machinery in the shape of a permanent intergovernmental body on European Security and Co-operation which might parallel the ongoing work of the ECE. For this reason the CSCE Governments wished the Commission (alongside other UN bodies) to become associated with the implementation, at multilateral level, of certain of provisions of the Final Act. The final decision on the follow-up to the Conference—which included the disposition that the participating States would implement the provisions of the Final Act at multilateral level, *inter alia, "within the frameworks of existing international organizations,* such as the United Nations Economic Commission for Europe"—was taken at the very end of the Geneva phase, i.e. some two months after the conclusion of the ECE's thirtieth session. Nevertheless, it was already clear then that Governments were broadly agreed that the Commission would have an important role to play in one way or another in the multilateral process initiated by the Conference. This made it possible to embark upon the adaptation of ECE's programmes, *even before the end of the CSCE.*

This state of expectation and preparedness of the Commission merged, after 1 August 1975 when the Final Act was signed, with the phase of adjustment and adaptation of ECE's activities. This phase lasted until the Commission, at its thirty-first session (April 1976) adopted guidelines and directives to ECE's subsidiary bodies on the recasting of their programmes in line with the Final Act, and more particularly with those provisions which envisage specific action through the ECE.[34)]

In this interplay between the CSCE and ECE conference diplomacy which reflected the changes that had occurred in the region's political relations, the Executive Secretary and his staff played a dynamic role by contributing to the political, substantive and organizational preparedness of the Commission to integrate itself into the CSCE follow-up process. On repeated occasions the Executive Secretary stressed the suitability, capacity and usefulness of the ECE as a multilateral mechanism for the development of the pertinent decisions of the Conference. He also argued that an overhaul of the Commission's programme of work had anyhow become necessary as a result of the dramatic changes that had occurred in the economy of the region and of the world which made for ever greater interdependence and called for a greater measure of intergovernmental co-operation both to stave off difficulties and strains, and to use new potentialities for joint endeavours in the collective interest. In his view *Governments had a unique opportunity to use this qualitatively new situation characterized by a keener awareness of common problems and onset of political détente.* In such a situation "perspective" thinking as a means of identifying key problems of common interest was of particular importance. The Executive Secretary made a point of addressing the annual sessions of the Commission's Principal Subsidiary Bodies which were held after the conclusion of the CSCE, including the Senior Advisers to ECE Governments on Environmental Problems, in order to put forward his own views on a reorientation of programmes and activities in the light of the results of the European Conference. He also stressed the need for prompt action if, by the time of the first CSCE follow-up meeting which was to assemble at Belgrade in the second half of 1977, the ECE were to be able to show tangible results in implementing those provisions in the Final Act which were explicitly addressed to it. Throughout this transitional period the Executive Secretary remained in close consultation with the Governments on ECE's post-Helsinki role. Already on 25 August 1975, i.e. less than four weeks after the signing of the Final Act, he addressed a letter to ECE Governments asking them for their views on the possible adaptation of the Commission's future activities so that he might take those views into account in drawing up his "concrete suggestions and specific proposals".

Thanks to a continuing and systematic interaction between the processes of two separate types of East-West conference diplomacy going forward within the frameworks of the CSCE and the ECE, the Commission was poised by the time of its thirty-first session in April 1976, the first convened post-CSCE, to be of maximum service to the Governments of the region, in discharging the difficult task of putting into practice the relevant conclusions which they had reached and embodied in the Helsinki Final Act.

It was at that thirty-first session that the initiative was taken to launch a proposal which was to lead to the convening of what came to be called the "High-level Meeting within the Framework of the ECE on the Protection of the Environment".

NOTES AND REFERENCES

INTRODUCTION

1. The author's task of defining the various concepts used in this investigation was greatly aided by Professor Valker Rittberger's seminal article entitled "Global Conference Diplomacy and International Policy-Making: The Case of UN-Sponsored World Conferences", published in *European Journal of Political Research* No. 11 (Amsterdam, 1983). pp. 167-182. See also the Note on Sources and Selected Bibliography, pp. 243-247.
2. *The Oxford English Dictionary*, quoted by Rittberger, *op. cit.*, p. 169.
3. Quotations from J. Kaufmann, *Conference Diplomacy* (Leyden, 1970), and C. Iklé, *How Nations Negotiate* (New York, 1967).
4. See, e. g. article entitled "UNCTAD Participation in Innovative Economic Teleconference", *UNCTAD Bulletin*, No 203, June 1984, pp. 9-10.
5. Lord Hankey, *Diplomacy by Conference*, New York, Putnam's 1946.
6. See *American Journal of International Law, 1*, 565-578; See also Simeon E. Baldwin quoted by Rittberger, *op. cit.*, p. 168.
7. In this context, it should be borne in mind that the United Nations and its specialized agencies are based on charters or constitutions, i.e. formally adopted treaties.
8. At the time of writing 159 States make up the membership of the United Nations Organization. The memberships of the specialized agencies vary in size but tend to be of the same order of magnitude. A few members of the specialized agencies are not members of the United Nations and *vice versa*.
9. For examples see Rittberger, *op. cit.*, p. 171.
10. Rittberger, *op. cit.*, p. 173. The actual length of the conference proper depends on the degree of preparation and the extent of the pre-negotiation of its decisions.
11. For a detailed discussion of conference decision-making in different types of UN-sponsored world conferences, see Rittberger, *op. cit.*, pp. 176-180.
12. Rittberger, *op. cit.*, p. 171.
13. To the extent that some of the developing countries either belong to the group of socialist countries or have opted for a "socialist-oriented" system, "inter-systems" conference diplomacy should not, strictly speaking, be confined to the interactions as between the industrialized countries. But for the purpose of the present study, the term "East-West" conference diplomacy is used in this more limited sense.
14. Italics added.
15. *Op. cit.* (New York, 1978), p. 2.
16. See *Beyond Detente: Prospects for East-West Co-operation and Security in Europe*, N. Andrén and Karl E. Birnbaum, eds. (Leyden, 1976), footnote 3.
17. *Three Decades of the United Nations Economic Commission for Europe, op. cit.*, p. 11.
18. *Ibid.*, pp. 16-17.
19. *Ibid.*, p. 17.
20. *Ibid.*, p. 21.
21. *Ibid.*, pp. 21 et *seq.*
22. *Ibid.*, pp. 22-26.
23. See p. 9 of Introduction.
24. *Beyond Détente, op. cit.*, footnote 5.

25. *Ibid.*, p. 139.
26. *Ibid.*
27. Final Act, p. 104. See also author's essay, *The Helsinki Final Act Viewed in the United Nations Perspective,* UNITAR Research Report No. 24, New York, 1980. (UN Sales No. E.80.XV.RR/24).
28. For a schematic presentation of the "Helsinki process", see author's essay cited in note 27, p. 74, and explanatory text, pp. 66-67.
29. Rule 4 of the rules of procedure of the Conference provides that decisions "shall be taken by consensus", which is defined as "the absence of any objection expressed by a representative and submitted by him as constituting an obstacle to the taking of the decision in question".
30. Italics added. For a discussion of the "three-tier" approach see author's essay on the *Helsinki Final Act, op. cit.,* pp. 62-65.
31. i.e. the twenty-ninth and thirtieth sessions (spring 1974 and 1975).
32. E/5740, p. 52. Italics added.
33. Such discrepancies as had existed were, to all intents and purposes, removed by a series of deliberate steps to that effect taken by the Commission and the Economic and Social Council. Thus Switzerland in 1972, and Canada and the German Democratic Republic in 1973 became full members; while San Marino in 1975, and the Holy See and Liechtenstein in 1976 were admitted to the ECE under article 8 of its terms of reference, i.e. in a consultative capacity.
    Three European States members of the United Nations, i. e. Albania, the Byelorussian SSR and the Ukrainian SSR, did not, for different reasons, participate in the CSCE. Monaco, a CSCE participant and signatory of its Final Act, has, so far, not sought to become associated with the ECE.
34. See also the contribution by Bailey-Wiebecke and Chossudovsky contained in the publication (in German) *Grünbuch zu den Folgewirkungen der KSZE.* von Jost, Delbrück *et al,* eds (Cologne, 1977).

CHAPTER I

GENESIS AND INITIATION: THE ORIGINAL PROPOSAL OF THE USSR REGARDING INTER-STATE CONFERENCES AT A HIGH POLICY LEVEL ON MAJOR SECTORS OF THE ECONOMY OF THE ECE REGION

Origins and launching of the proposal

The origins of the High-level Meeting within the Framework of the ECE on the Protection of the Environment can be traced back to a proposal made by Mr. L. I. Brezhnev, the then General-Secretary of the CPSU and Chairman of the Presidium of the Supreme Soviet of the USSR,* in an address which he delivered on 9 December 1975, at the seventh Congress of the Polish United Workers' Party. On that occasion, he said that "now, after the Conference on Security and Co-operation in Europe a real possibility exists *to move further along the road...* much that is useful could be accomplished already in the near future. We think that, *for instance,* the holding of all-European congresses or inter-State conferences on questions of co-operation in the fields of the protection of the environment, the development of transport and general energy problems would lead to positive results".[1] The next step of the USSR was to put the proposal forward at a suitable intergovernmental forum so that it could be given due consideration. The first CSCE follow-up meeting to be held at Belgrade was at that time a long way away. It was therefore plausible to launch this idea at the forthcoming thirty-first annual session of the Economic Commission for Europe which was scheduled to convene on 30 March 1976, i.e. some three and a half months after Mr. Brezhnev's statement. The session was to be the first multilateral meeting at policy level to be held after the ending of the CSCE attended by the Governments Signatories of the Helsinki Final Act. ECE was obviously the most appropriate forum for taking this initiative because of its involvement in the implementation of the multilateral level of the Final Act in all the three fields mentioned. Furthermore, the thirty-first session intended to address itself, as one of its central concerns, to the examination (as Commission resolution 2 (XXX) had put it) "of the consequences of the CSCE for the future work of the Commission".

The timing of the session thus seemed felicitous. The period—some eight months—that would have elapsed since the signing of the Final Act was long enough to allow individual Governments and ECE's Principal Subsidiary Bodies to give thought to the future role of the Commission after Helsinki and for the ECE secretariat to provide them with the necessary guidance and to articulate their own observations. Also, the session would be held soon enough after the ending of the Conference on Security and Co-operation in Europe for the initial political impact of this event to continue to be felt despite the persistence of East-West tensions.

The session's provisional agenda as it was originally drawn up at the close of the preceding session, provided for the consideration of the effects of the

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* This institution has now been replaced by an entirely new State structure.

Final Act on ECE's work under a separate item dealing with the "future activities of the Commission". For this purpose the Executive Secretary submitted a report (E/ECE/900) which served as the basis of the discussion.

The report's leading theme was that the changing economic *problematique* must be related to the transformation of the political environment. While the Executive Secretary did not envisage a fundamental restructuring of ECE's activities he suggested their pragmatic adaptation to meet new conditions by a process of strengthening, widening and deepening co-operation within the ECE framework through a more dynamic, integrated and forward-looking approach.

In considering possible adaptations of ECE's activities, the report examined the further development of particular task areas (both "horizontal" and "sectoral"), i.e. trade and industrial co-operation; science and technology; the environment; inland transport; energy; industry; agriculture and forestry products; water; human settlements; and statistics. When citing the relevant provisions of the Final Act under these headings, the Executive Secretary did not, however, interpret the need for adaptation of ECE's programmes to the requirements of the Final Act in a limitative way, restricted solely to those of its provisions which refer directly and explicitly to the ECE, but followed a broader approach which encompassed all subjects clearly within ECE's purview and to whose consideration at multilateral level the Commission could be expected to make a contribution.

When analysing programme adaptation viewed as a process, the Executive Secretary enumerated the following criteria used by him in making concrete suggestions for particular adaptations:

(1) Preference should be given to *work on problems of major policy importance;*
(2) Activities should be forward-oriented;
(3) Special emphasis should be accorded to the study of inter-sectoral problems;
(4) Flexibility in formulating programmes and priorities should be maintained;
(5) ECE should provide the framework for co-operation among Governments, who wish to co-operate on problems within the Commission's mandate which are of mutual interest to them; and
(6) ECE activities should make an effective contribution to the work and objectives of the United Nations.[2)]

In the event, the discussion of the future activities of the Commission (in the light of the outcome of the CSCE) was supplemented and sharpened by the addition of two further items proposed by Yugoslavia and Poland respectively under which the Commission should consider *its objectives and its role in the implementation of the decisions of the Final Act.*

The delegation of Yugoslavia explained that its initiative was designed *to reflect the special role assigned to the ECE* and to encourage the development of intra-European co-operation aiming at the solution of new problems of common concern *in such fields as energy and the environment.* The delegation of Poland felt that it would be useful to strengthen co-operation going forward in the ECE as between countries with different economic and social systems and therefore *to define the precise scope of the tasks to be accomplished by ECE in this field.*

First presentation of the proposal at the thirty-first session of the ECE (spring 1976)

It is against the background of the Commission's preoccupation, at its first post-CSCE session, with the question of the way in which ECE should respond to the implementation of the Final Act that the proposal of the USSR should be viewed. At the request of the delegation of the USSR, the proposal was introduced as an additional agenda item and was worded as follows: "Holding of all-European congresses on questions of co-operation in the field of protection of the environment, development of transport and the energy economy."[3)]

The communication received by the Executive Secretary from the Government of the USSR on the matter stated that the proposal was explicitly linked with the implementation of the Final Act. It was intended to intensify and deepen multilateral economic co-operation in major fields of region-wide concern and thereby to keep up the momentum generated by the Conference.[4)] In addition to being examined in some detail as a separate item of the agenda, it was first considered, in more general terms, as part of the traditional general discussion entitled "Work of the Commission as a whole".

The consideration of the proposal under a separate item of the agenda enabled the delegation of the USSR to give additional explanations concerning its nature and purport. In the view of the Soviet Government the proposal was aimed, as the report of the session summarizes it, "at giving practical effect to the relevant provisions and principles agreed upon in the Final Act of the CSCE; it would continue the momentum of the CSCE, and would strengthen the role of ECE in fields which were definitely within the competence of the Commission... the agenda for these congresses would be formulated *taking into account the proposals and views of all countries concerned*... the ECE secretariat might be asked, in consultation with member Governments, to prepare recommendations on practical questions concerning the implementation of the proposal. The facilities of the ECE would be used in all the preparations for these meetings and the Commission would participate in the implementation of their decisions... In accordance with the wide scope of the tasks assigned to those meetings the *representatives should be at a governmental level, which would ensure the implementation of the decisions worked out*... Insofar as a great number of scientists and experts would also participate, this form of co-operation would be in full conformity with the provisions not only of the second chapter of the Final Act of the CSCE dealing with co-operation in the economic and related fields but also of its third chapter dealing with co-operation in humanitarian fields. As regards the timing of the meetings, it would be desirable to hold them as soon as possible but they could be spread out over a period of two or three years. The USSR delegation expressed its readiness to hold the congress on energy in the Soviet Union".[5)]

The above presentation, as it is summarized in the formally approved report of ECE's thirty-first session, calls for some preliminary comment which, it is hoped, will facilitate an understanding of the way in which the Soviet proposal gradually evolved until it finally resulted in the High-level Meeting.

To begin with, it is evident that this exposition was intended to represent the initial policy posture and therefore left ample scope for discussion and subsequent negotiation. The proposal was conceived by its proponent as being in line with a dynamic view of the dispositions of the Final Act. As far as the *substance* of the meetings is concerned, the Final Act contains detailed provisions involving the use of the ECE regarding both environment and transport.[6] Energy figures prominently in section 2 of the second chapter of the Final Act dealing with industrial co-operation and projects of common interest in which "the participating States... consider that possibilities for projects of common interest with a view to long term economic co-operation... exist in... [the field of] exchanges of electric energy within Europe with a view to utilizing the capacity of the electric power stations as rationally as possible... [and in] co-operation in research for new sources of energy...".[7]

While sectoral meetings at high governmental level are not foreseen, *expressis verbis,* in the Final Act, it could be argued that they are certainly not excluded. For instance, in the section dealing with Environment, the participating States, under the heading "Forms and methods of co-operation", declare that the problems relating to the protection and improvement of the environment "will be solved on both a bilateral and multilateral, including regional and subregional, basis making full use of existing patterns and forms of co-operation" specifying that *"the organization of conferences,* symposia and meetings of experts" is one of the forms through which "co-operation in the field of the environment will be implemented".[8]

As regards *the scope and methods* by which such co-operation is to be developed the Helsinki Final Act does not limit itself solely to technical aspects. It encompasses such potentially far-reaching types of co-operation as consultation on various agreed aspects of environmental protection, especially in connection with problems which could have international consequences; promoting the progressive development, codification and implementation of international law as one means of preserving and enhancing the human environment; supporting and promoting the implementation of relevant international conventions to which they are parties as well as considering other appropriate Conventions to which they are not parties at present, etc.[9] It can therefore be argued that some of these subjects have policy implications and, since the over-all aim of the Signatories of the Final Act is to intensify and deepen co-operation, which ultimately manifests itself in changes of national policies and actions and their concertation on an international plane, it would make sense if the Governments concerned could in some cases judge it appropriate to meet at higher level of policy-making, both bilaterally and multilaterally.

In the original Soviet proposal reference was made to holding "all-European congresses or inter-State conferences". As the proposal evolved the term "inter-State conference" was increasingly used.[10] One aspect of the Soviet proposition which subsequently led to considerable discussion (some of it informal) was the question of the appropriate *organizational framework and institutional auspices* under which the suggested meetings were to be held. Originally the Soviet delegation (for reasons which will be considered at a later stage) seemed to favour an *ad hoc* meeting prepared and serviced by the ECE secretariat, the Commission being entrusted with the follow-up of some of its decisions, but which otherwise would be held *outside the ECE framework* (and, as some wondered, conceivably linked with the CSCE follow-up processes).

The statement of the Soviet delegation (quoted earlier), that representation at the proposed "congresses" or "conferences" should be "at a governmental level" also caused some semantic misunderstandings. In customary UN parlance virtually all meetings held under the Organization's auspices are *ipso facto* intergovernmental in the sense that they are attended by representatives who, irrespective of their level, are either directly appointed by Governments or else delegated by governmental agencies. The level of representation varies a great deal, depending upon the character of the meeting in question, from the Heads of State or Government on rather exceptional occasions, foreign and other ministers or their deputies, to "ranking" diplomats such as ambassadors and senior officials, heads of departments and experts. But when talking about the "governmental level", as is clear to anyone familiar with the Russian language and Soviet administrative practice, the Soviet delegation had in mind a very specific category of persons, i.e. *actual members* (in one way or another) *of the Governments of the countries concerned.* Applying this criterion to the Soviet Union would mean that the representative to the proposed meeting would have to be *a member of the Council of Ministers of the USSR,* which is the country's highest executive and administrative body of State authority and consists of a chairman, a number of first vice-chairmen and vice-chairmen, the ministers (but not their deputies) and the chairmen of State Committees who have ministerial rank. The rationale of this high level of representation thus proposed was not, it seems, of a ceremonial or symbolic nature (although such considerations do play some role in conference diplomacy) but reflected the *desire to guarantee that the decisions taken,* more particularly those that are not legally, but only politically binding) *lead to the necessary national action.* In other words, the Soviet delegation was concerned that the representatives of States in the proposed meetings should clearly be senior policy- and decision-makers, which for most countries would mean ministers who are responsible for national policy in different sectors.

The opening stance of the Soviet delegation regarding its proposal did not indicate any kind of priority or preference as to the three subject areas; and their sequential order—environment, transport and energy—employed in the wording of the proposition was hardly meant to imply any kind of precedence, though the readiness of the Soviet Government to host a possible meeting on energy betokened its special interest in that subject. Otherwise it seemed that the delegation was prepared to leave it to the Commission to decide the order in which the meetings were to be held. Apparently the proposers thought that all three could be prepared and spaced "over a period of two or three years", a rather short time-span if account is taken of the relatively low speed at which the wheels of conference diplomacy usually turn, especially in the "East-West" context.

Initial reactions

As could have been expected, delegations, during the discussion of the proposal, touched upon some of the above-mentioned points and, though the need to continue the momentum generated by the CSCE in the implementation of the provisions in the three fields mentioned "was generally recognized",11) reactions to the Soviet proposal varied in several respects.

Some delegations, drawn mainly though not exclusively from the Eastern countries commented in a positive manner on the Soviet submission taken as a whole. They believed that the congresses or inter-State conferences on the topics indicated "could become a successful instrument for the comprehensive solution, in a concrete and practical manner, of the problems of the environment, development of transport and energy, vital for all countries in the ECE region".12) They also commended the dynamic approach to the implementation of the relevant provisions of the Final Act as reflected in the Soviet proposal. Suggestions were made regarding the substantive aspect of the proposed series of meetings. For instance, in the energy sector, problems involved in the interconnection of energy transmission systems, the establishment of an all-European transport system of energy raw materials and the construction of major energy generating complexes might be dealt with. A conference on environmental problems could address itself to such questions as *the transport* *of pollutants to the territories of other countries and the production and standardization of pollution abatement equipment.* Amongst the major questions of common interest in the field of transport, mention was made of the improvement of the European network of main transportation arteries and the construction of inland deep navigation waterways.[13)]

Delegations from another group of countries acknowledged that the topics included in the USSR proposal covered fields of major preoccupation where intensified co-operation among all Signatories of the Final Act would be welcome. They expressed their satisfaction that the proposal had been made within the framework of ECE, but suggested that the outcome of the Belgrade CSCE follow-up meeting (scheduled to be held at the end of 1977) should be awaited before deciding on any machinery for the implementation of the provisions of the Final Act.

The views of the (then) nine member countries of the European Economic Community were expressed, on their behalf, by the representative of Luxembourg. He considered that when Governments were able to take note of the work undertaken by the Commission's bodies "and all the information which would have been collected in preparation for the Belgrade meeting, ... [they] would be in a position to decide whether, with a view to continuing multilateral co-operation in those three fields and *possibly going even further than the Final Act, such co-operation should be undertaken within the framework of the programme of work and in accordance with the Commission's usual practice or whether*—if preferable and acceptable to all Governments—*other procedures should be adopted".*[14)]

Contrary to the established tradition whereby the reports of the Commission's plenary sessions summarize the discussion by grouping, without identification, those delegations which express similar views, the Commission in its report on its thirty-first session singled out, and at their request identified, the initial reactions of two Governments. The delegate of Romania, in supporting the idea of holding all-European congresses on matters proposed by the USSR, stressed that these meetings should be organized on the basis of the principles and rules of procedure of the CSCE (the latter provide for decisions by consensus).[15)] The delegate of the United States of America agreed with the Soviet Union that there was a need to continue the momentum generated by the CSCE in the three areas singled out, as in all fields. The best way to achieve this objective in the ECE was through the adoption and execution of a limited number of specific and action-oriented projects. His Government believed the ECE committee structure was fully adequate for implementation over the next year of those particular projects deemed to be of greatest interest. "His delegation doubted that the type of general conference proposed by the USSR would yield the concrete results it was believed all CSCE countries would like to achieve. He added that the CSCE Final Act did not provide for such conferences, and to take a decision on them in the context of the ECE would not be appropriate before the 1977 Belgrade follow-up conference."[16)]

Interim decision by the Commission on the proposal

It was clear from the tenor of the discussion that the Western Governments were not prepared, or did not wish, at this initial stage, to take up a definite position on the Soviet proposal, beyond expressing their interest in it and their readiness to study it further. Indeed, indication of interest in, and willingness to explore, the proposal constituted the sole common denominator on which agreement could be reached. It was embodied in decision B (XXXI).[17)] Though its text was, of course, negotiated as usual through informal conference diplomacy, the draft decision, contrary to customary ECE practice, was tabled by the USSR and some other countries of Eastern Europe, possibly in order to emphasize that it was their earnest wish to have the proposal seriously considered without undue haste. In addition, in Commission resolution 1 (XXXI)—the future of the Commission and the implementation of the Final Act of the CSCE—the attention of ECE governments was drawn to the decision on the follow-up to the Soviet proposal.

Under the circumstances, the inconclusive response to the initial Soviet proposal was not surprising. Any major proposal in a multilateral forum has usually to go through an exploratory stage. In this particular case, many Western delegations, including those whose Governments were not opposed to the stepping-up of ECE's activities in one or more of the areas mentioned in the Soviet proposal, preferred, for political reasons, to be somewhat cautious and certainly did not want to commit themselves in any way at this early stage. Many of the provisions of the Helsinki Final Act were open to varying interpretations. East-West tensions, particularly between some of the CSCE countries, persisted and new misunderstandings, differences and even conflicts, had arisen. Mutual confidence, especially between the two major powers, remained at a very low level. In such a situation a potentially far-reaching initiative coming from the Soviet Union was bound to arouse suspicion and was therefore only partially considered on its merits. The reticence shown, for instance, by the Governments of countries members of the European Economic Community who had come to the session with an agreed policy line, and the initial response of the United States of America, must have been due, at least in part, as much to uncertainty regarding the political motivation behind the Soviet initiative as to doubts about some of its institutional features.18) Despite extensive discussion a number of points emerged which required clarification. The Soviet delegation had emphasized that the high-level character of an intergovernmental meeting was indispensable to ensure the essential link between decisions and their implementation, but this important aspect was not pursued to any extent during the discussion. One Government was sceptical about the effectiveness of conferences as an instrumentality of East-West conference diplomacy.

Leaving aside the question of the political level of the proposed meetings, under what auspices were they supposed to take place? And what would be the precise role of the ECE in such an eventuality? In the discussion doubts had been voiced as to the appropriateness of a decision being taken by ECE on the holding and modalities of the proposed meetings without prior consideration at CSCE's first follow-up meeting (even though the ECE and the CSCE Governments were virtually the same); whether this particular form of co-operation was consistent with the letter of spirit of the Helsinki Final Act, and, if so, whether such co-operation should take place outside or within ECE's institutional framework. Various views on this aspect were expressed and procedural differences as between meetings held within the CSCE and the ECE frameworks were noted. These aspects and a host of other institutional, organizational and administrative aspects clearly required further elucidation.

Another point raised was whether a decision should be made on the entirety of the Soviet proposal or whether a case-by-case procedure should be followed. And, once the general theme had been selected, what should be the particular subjects for consideration at the proposed Conference? To what extent would the level of representation at an intergovernmental meeting affect the selection of those subjects and *vice versa*? Some examples of possible topics had been given in the course of the discussion, though it was obvious that this matter required further attention. But it is important to note that by the time the thirty-first session concluded (on 9 April 1976), a new, major and distinct process of "East-West" conference diplomacy had begun, despite all hesitations. It was impossible for either side to dismiss out-of-hand any proposal of consequence advanced by one of them in the wake of the adoption of the Helsinki Final Act. Although decision B (XXXI) was non-committal, it marked the *start of the stage of exploration* by suggesting that Governments study thoroughly and express their views on the proposal and by asking the Executive Secretary to circulate any such views. Thus the proposal was set in motion, though the end result was quite uncertain. The pace would certainly be slow, probably slower than is usual in multilateral conference diplomacy. The annual periodicity of plenary sessions of UN bodies such as the ECE, determines to some extent the time required to bring a major multilateral project to fruition. To begin with, it would be only at the next session, a year hence, that the results of the first exploration could be assessed, and further measures, if any, agreed upon.

NOTES AND REFERENCES

CHAPTER I

1. L. I. Brezhnev, *Vo Imya mira na Zemle* (In the Name of Peace on Earth), (Moscow, 1977), pp. 132-133 (in Russian). Author's translation and italics. The authors of *Acid Rain in Europe and North America* (Washington D. C., 1983), G. S. Wetstone and A. Rosencranz mistakenly state (on p. 140) that this proposal was made by Mr. Brezhnev in his speech at the CSCE Summit meeting in Helsinki which concluded on 1 August 1975 with the signing of the Final Act of the Conference.
2. E/ECE/900, para. 13. Italics added.
3. E/ECE/908.
4. E/5781, para. 38.
5. *Ibid.*, para. 66. Italics added.
6. Final Act (official text), pp. 102-105; 106-107.
7. *Ibid.*, p. 96.
8. *Ibid.*, p. 104. Italics added.
9. *Ibid.*, p. 105.
10. The first presentation of the proposal by the delegation of the USSR at the thirty-first session of the Commission spoke only of "congresses". Some confusion, it seems, was caused by the use of this term. On closer examination the misunderstanding appears to be, at least in part, of a semantic nature. The terms "congress" and "inter-State conferences" were used as being largely, if not wholly, synonymous. Originally "congresses" denoted gatherings of representatives of countries including meetings of diplomats and statesmen, convened for the solution of major international problems, e.g. the conclusion of peace treaties (such as the Congress of Vienna). During the twentieth century the term was increasingly, though not exclusively, applied to assemblies of a non-governmental character. The reason for using the term "congress" in connection with the Soviet proposal was perhaps the idea, which was subsequently dropped, of combining an intergovernmental conference with a coming together of scientists and experts.
11. E/5781, para. 38. For those interested in tracing the opinions and positions of individual Governments, attention is drawn to the summary records of part of the proceedings of the plenary sessions. The summary records covering the thirty-first session are contained in E/ECE(XXXI)/SR. 2-6 and 11.
12. *Ibid.*, para. 68.
13. Condensed from E/5781, para. 68. Italics added.
14. E/5781, para. 38.
15. *Ibid.*, para. 38.
16. *Ibid.* Italics added.
17. For text of decision B (XXXI), The Proposal in regard to the Holding of All-European Congresses on Questions of Co-operation in the Field of Protection of the Environment, Development of Transport, and Energy, see E/5781, pp. 98-99.
18. It has been said that the United States Government has, as a rule, been wary of Eastern initiatives launched in the ECE regarding major "all-European" projects, because of their perception that such projects might adversely affect its own involvement.

    More generally it seems that among the political reservations at the time regarding the idea of large-scale "pan-European" projects as advocated by the USSR, was the perception that public attention might be diverted from the Final Act's "third basket" which deals, *inter alia,* with Humanitarian Matters and Human Rights. Some Western Governments may also have been reluctant to promote region-wide activities in areas which might impinge on the "North-South dialogue" in which Eastern countries did not participate. Some countries feared that a series of high-level gatherings outside the ECE framework might lead to a measure of institutionalization of the CSCE follow-up. Hence the insistence on placing any such meetings within the framework of the ECE.

CHAPTER II

EXPLORATION: THE THIRTY-SECOND SESSION OF THE COMMISSION CAUTIONS PROGRESS

The need to strengthen the authority of the ECE and its capacity to take action

One of the major results of the thirty-second session of the Commission (held from 19 to 30 April 1977) which coincided with ECE's thirtieth jubilee was the adoption of a new programme of work so recast as to reflect the implementation by the ECE of the pertinent provisions of the Final Act.[1] This was coupled with an arrangement whereby the Executive Secretary, "if invited to do so by participating States", was to inform the first CSCE follow-up meeting due to open on 4 October 1977 at Belgrade, of the progress made in this regard. The second major concern of the session was, of course, the further consideration of the Soviet proposal on intergovernmental or inter-State sectoral conferences. The thirty-second session essentially marked the completion of the purely exploratory stage of the Soviet proposal. Considerable progress had been made during the intervening period in clarifying many important aspects and narrowing differences. But it soon became evident that, for a number of reasons, more time would be required to reach a final accord on the actual holding of any of the suggested conferences. Although the proposal figured in the agenda as a separate sub-item of the item on the future activities of the Commission, most discussion on it was, as might have been expected, closely linked with the consideration of the Commission's contribution to the implementation of the Final Act of the CSCE.

The exploratory stage of the proposal should, like the stage of its initiation, be placed in the wider perspective of the adaptation of ECE's activities in the wake of the CSCE. In its decision (B (XXXI)), the Commission had limited the Executive Secretary's task in connection with the exploration of the Soviet proposal essentially to the making of an *enquête* of the views of Governments and the compilation of factual background information of ECE's existing activities in the three sectors referred to in that proposal. On the other hand, in resolution 1 (XXXI) the Commission did ask him specifically to make "proposals and suggestions on future activities of the ECE, including those arising from the implementation of the Final Act", in the report on this subject for consideration at its thirty-second session (E/ECE/911). This request gave the Executive Secretary the opportunity to address himself anew to the question of the Commission's capacity and authority to take effective and timely action along certain lines which he believed to be one of the crucial issues facing the organization, especially after the Helsinki Final Act had given a new impetus to ECE's work.

In his customary opening statement the Executive Secretary enlarged upon the "proposals and suggestions" on this particular aspect[2] which he considered to be central to the future potentialities of the Commission, but were also at the heart of the Soviet proposal. Mr. Stanovnik believed that *innovative* *means* had to be evolved in ECE whereby emergency needs were rectified promptly so that adequate action could be taken at an appropriate level. He observed that *region-wide* co-operation was moving into areas where more normative acts of international co-operation might be required. Indeed, *the intensity and degree of regional co-operation had reached a stage where the range of binding agreements should be further strengthened.* Agreement on the holding within the framework of the ECE of occasional meetings or conferences of ministers or high government officials in individual economic sectors, would enable the Commission to inform the Belgrade CSCE meeting that not only had the Commission adopted an adjusted programme of work, but that it had already taken the *action necessary to strengthen the authority of the ECE* and thereby the capacity to discharge the tasks entrusted to it.[3)]

These notable reflections by the Executive Secretary had a clear impact on the discussions of the Soviet proposal at the session.

Discussions on the Soviet proposal: the second round

The discussions were held after Western Governments had ample time to examine the proposal in depth and in certain cases to concert their views. In response to the Executive Secretary's request made pursuant to decision B (XXXI), detailed comments and suggestions had been submitted by some of the Governments, including the Government that had initiated the proposal. These replies had been circulated to all Governments and had greatly contributed to clarifying the situation.[4)] The USSR, and also other countries which supported the proposal, were also to supply further explanations on the type of meeting envisaged and to give illustrative examples of the kind of topics that could be discussed at the conferences under the three headings, and the representatives of the other Governments could express their considered views on the proposal.

Obviously the main point that had to be settled first was whether, and, if so, under what circumstances, the convening of conferences at a higher level of political authority could be justified. The Executive Secretary's reflections contained in his report on the future activities of the Commission had pointed to certain categories of problems which seemed to warrant such level of treatment. The member countries of the EEC, within the framework of "European Political Co-operation" (EPC) as a means for concerting their foreign policies, had agreed on a common response prior to the thirty-second session of the Commission and had communicated it through the Executive Secretary to all ECE Governments. At the session itself their position was reiterated by the representative of the United Kingdom speaking on their behalf.[5)] Despite the considerable caution with which it was couched and its conditional nature, the declaration seemed to signal readiness to engage in serious negotiations regarding the Soviet proposal. Briefly, the position of the countries members of the EEC was stated as follows. Referring to the Executive Secretary's report (E/ECE/911) the Community's view was that *"there might be instances where the results of the essential contacts and co-operation among experts could be enhanced by a meeting within the framework of the ECE held at a higher level than usual"*.[6)] In connection with the proposals made by the USSR the Community was of the opinion that "any high-level meeting would have meaning and purpose only if the subject matter would require a high level of representation and hold out promise of important decisions; that it would be clearly defined and limited in scope; that the meeting would take place within the framework of the ECE; and that it would be preceded by adequate preparations... the topics should be of concern to the region as a whole;... the protection of the environment might well contain topics which met with these requirements. The Executive Secretary could be invited to carry out, with the assistance of the member States, a detailed analysis of these topics and to report to the thirty-third session on whether any of them were ripe for consideration at a high-level meeting. If his report were to confirm that the criteria could be satisfied, a high-level meeting on the problem of the protection of the environment identified in the report could be considered favourably. A number of procedural and organizational issues would need clarification and should be dealt with by the Executive Secretary's report to the thirty-third session."[7)]

This comprehensive policy response to the Soviet proposal addressed itself to all the main aspects of the exploratory stage. On certain of them it appeared to hold out promise of a compromise solution. But it was clear that much hard bargaining was in store before consensus could be reached on how to proceed, and, above all, that no final decision on the matter was likely at the session.

Some points presented little or no difficulty. The question of the objectives of the proposed intergovernmental conferences did not, at this stage, give rise to any fundamental differences. The delegations of the countries which had, right from the beginning, supported the Soviet proposal, enlarged upon the observations they had made on the matter at the thirty-first session by specifying that the intergovernmental conference could define the problems and identify topics in which the need was felt for working out and concluding multilateral all-European agreements aimed at pooling national efforts for more action-oriented and speedy solutions of the most urgent problems.[8)] Both sides considered it premature to spell out the form and status of such agreements. But obviously all participants had noted the reference contained in the Executive Secretary's opening statement mentioned earlier, that *in some cases regional co-operation warranted the conclusion of binding accords.* Little was said about the precise level of representation. But there was tacit understanding that, while it was unnecessary to lay down specific rules in this regard, the representatives should be policy- and decision-making functionaries dealing with the particular sector, authorized to assume action-oriented commitments.

The choice of the theme for a first high-level meeting

As regards the choice of the over-all theme of a high-level meeting there was virtual agreement that if the feasibility for such meetings were to be accepted *the most suitable subject area* to be tackled in the first instance could be that of *environment.* In fact the Soviet delegation and those delegations which had backed the proposal from the start, had indicated as much during the discussion, though the USSR was plainly anxious that examination of the remaining two areas should remain on the agenda. The representatives of the USSR stated that since a number of delegations seemed to favour making a start in the field of the protection of the environment, the Commission could decide to embark on the preparation for a congress on that topic, while continuing the study of the question of all-European meetings on energy and transport.[9)] Some delegations, including those of the Nordic countries, argued that "the subjects proposed by the USSR... were at different stages of maturity and should therefore be considered independently of each other. It appeared to them that the field of *environmental protection, in which all countries faced the same problems and were searching for effective methods of control,* was the most suitable topic in which greater ECE co-operation might be considered". As the report put it "these delegations expressed their conviction that a specific decision of ECE on the proposed congresses *or, in a first stage, on one of them, for instance on the environment,* would be an important practical move towards the implementation of agreements reached at the CSCE...".[10)]

Environmental protection is, indeed, a subject which concerns virtually all countries of the region to a greater and lesser extent and, though differences in systems of ownership prevailing in those countries do affect pollution control policies, all countries, irrespective of their internal systems, have to face the problem. Methods of environmental control are largely determined by scientific considerations. Similar industrial processes used in the ECE countries which constitute together the most highly developed region in the world, create similar if not identical pollutants having pretty much the same effects throughout the region, though of different degrees. All countries stand to gain by pooling experience and adopting common monitoring techniques and standards. International waterways and wind currents, carriers of transboundary air pollutants, have led a situation of close interdependence calling not only for co-ordinated national action not merely for bilateral accords but increasingly also for the enunciation and application of concerted international measures of a multilateral character. Indeed the protection of the environment has become recognized as a major universal task of the entire international community calling for regional and global solidarity. But, what is of equal importance, neither the nature of the problem nor the type of action it requires could be said to be politically sensitive in the context of the East-West relationship.

As regards transport, it can be argued that thanks largely to the activities of ECE's Inland Transport Committee and a number of other specialized international bodies, region-wide co-operation in transport matters had reached a high degree, including a ramified network of administrative agreements and technical conventions.[11)] Although a number of schemes had been put forward for drawing the various parts of the region more closely together through a greater extent of integration and unification of Europe's rail, road and inland waterway systems, it could be argued that their urgency was not so pressing as in the case of the protection of the environment.

Suggestions of Eastern countries for expanding the capacity of Europe's transport to cope with the increase in East-West commercial and economic exchanges were questioned since there was no politically agreed view about the prospects of such exchanges. And though this was not explicitly stated, it is not unreasonable to assume that, whilst in the view of some delegations the problem of East-West security had not been adequately settled, the strategic aspects of transport could not be entirely disregarded.

The energy field seemed to be a highly promising area for region-wide co-operation having regard to the regional configuration of energy resources and the world energy problem that had arisen. The Soviet Union which possessed vast, and as yet under-utilized energy resources, had always felt that there was considerable potential for mutually advantageous co-operation, not only in an intra-Eastern but, more importantly, in an East-West context. One of the topics that had been suggested in communications sent to the Executive Secretary pursuant to Commission decision B (XXXI), relating to the development of energy, was "optimum utilization of energy resources and increased co-operation in meeting the energy demand". The Soviet Union has consistently favoured this type of co-operation as an example of a long-term arrangement which would be in the interests of both parties. There was undoubtedly great interest in this approach on the part of some Western countries, as the subsequent conclusion of a series of significant bilateral and multipartite East-West projects and deals in the energy sector demonstrated. But at the same time concern was expressed in certain Western quarters as to the possibility of their "over-dependence" on energy supplies from Eastern countries, and more particularly from the Soviet Union that such co-operation might imply. Under these circumstances it was difficult to visualize early agreement on calling a high-level meeting at which the possibility of enunciating region-wide measures in the energy field, or even concerted elements of common policies in this area might be discussed. Looked at from this angle, therefore, some member countries felt that the general energy sector, while perhaps ripe and suitable for attention by the ECE at the research and technical levels was not mature or suitable for consideration at a high level.12) However, they had no objection to further study of the possibility of holding meetings in the two other sectors in the light of the substantive suggestions made by the USSR and by the other countries supporting the proposal.

Given this situation, the choice of the protection of the environment as the theme for a possible intergovernmental conference seemed plausible. An inconclusive first conference would have put in question the very viability of the Soviet proposal as a whole thus prejudicing the chances of organizing further conferences of this type. It was therefore vital to ensure the success of an innovative form of "East-West" conference diplomacy by choosing a subject—the protection of the environment—which was seen by all as lending itself best to a fruitful discussion at a high policy level.

The institutional aspects of a possible high-level meeting

As regards the institutional aspect of the proposal, the statement that had been made on behalf of the member countries of the ECE (which subsequently was to become part of the final compromise) envisaged that any meeting that might be convened "at a higher level than usual" would be held *"within the framework of the ECE"*. The Executive Secretary, too, visualized that the "occasional meetings or conferences of ministers or high government officers" would take place within that framework. In one of his statements the Soviet representative argued once again in favour of special high-level intergovernmental meetings of an *ad hoc* character designed to work out specific measures to be taken by the Governments and embodied in operational agreements, i.e. meetings that would be different from those normally held by the Commission. This argument in favour of an autonomous institutional framework for the proposed intergovernmental conferences was perhaps due to the desire to emphasize the exceptional political and policy importance of such an occasion and its qualitative difference from the usual run of ECE meetings which, it was claimed, were mainly technical in character and had but little impact on policy.

The Soviet case for a novel institutional pattern of East-West conferences is comprehensible. At an earlier stage of this study, reference was made to a number of Soviet initiatives undertaken during the 1960s to enhance ECE's political authority. These initiatives included the idea of holding ministerial meetings, for instance in the field of foreign trade, and the conclusion of an agreement on all-European economic co-operation. None of these initiatives was accepted, and it was conceivably the Soviet perception of the limitations of the ECE in dealing with policy-relevant matters which led the USSR, in the course of the CSCE negotiations, to consider sympathetically the setting-up of an entirely new institutional mechanism to carry forward the pertinent decisions in the fields of security and co-operation embodied in the Helsinki Final Act. In the event this idea was abandoned. Many of the provisions in the Final Act to be implemented through the ECE, though important, were probably seen as being predominantly technical rather than policy-setting in character. Therefore it was doubted that under these circumstances ECE's political authority would grow. Intergovernmental conferences at policy level held outside ECE's framework might therefore have a greater impact on the further development of East-West co-operation, strengthen the CSCE process, and might result in at least some elements of region-wide policies in environment, transport and energy. It was probably also assumed that an autonomous or CSCE-related intergovernmental conference would have a greater influence on public opinion than a meeting held under the auspices of the ECE, whose ongoing activities have never had an adequate coverage by the media and were practically unknown.

At the same time, it was clear to the Soviet delegation that since the original Soviet proposal did not envisage the establishment of any new permanent machinery resulting from the "congresses", the involvement of the ECE and its secretariat both in the follow-up to, but also in the preparations for, the intergovernmental conferences was essential, for there was no other body which could have done the work. In the end the USSR did not, for the sake of reaching agreement on the proposal, insist on the retention of its institutional formula. The compromise which was finally adopted provided for "any such high-level meeting" to be held "within the framework of the ECE".

In the last analysis the determination of the institutional status of a high-level meeting revolved around the question of the extent to which ECE Governments had the collective will to work towards, and arrive at, what might be termed "action-inducing" and "action-ensuring" decisions at policy-level in regard to concerted multilateral solutions of major sectoral problems facing the region as a whole, and, if so, whether they were, once again taken as a collective, prepared to use the mechanism of the ECE for that purpose. Once there was as least a measure of a meeting of minds on that score, the institutional advantages of keeping all the stages of the conference process, i.e. the preparation, the conference itself, and the implementation of its decisions, under one roof, so to speak, became pretty convincing. The ECE had a permanent machinery—the annual sessions—to adopt the necessary decisions on holding the meeting in question; it had a well-established Principal Subsidiary Body, the Senior Advisers to ECE Governments on Environmental Problems (SAEP), composed of highly competent experts and policy advisers. This body would be the obvious "focal point" for making the necessary preparations. The ECE had an effective, experienced and dedicated secretariat, the Office of the Executive Secretary and a Division dealing with Environment and Human Settlements, which could be relied upon to assist and advise Governments and their representatives on the substantive and policy aspects; and it was entitled to a sizeable share of the excellent meeting facilities provided by the United Nations Office at Geneva. This "infrastructure" was in fact available for the preparatory phase, the meeting itself and, last but not least, for the decisive stage of the total conference process, that of implementation and of follow-up.

While it was agreed that "any such high-level meeting" would be held "within the framework of ECE", the Commission in its resolution 1 (XXXII), part II, acknowledged the special nature of a possible high-level meeting. For in one of its dispositions a request was directed to the Executive Secretary to prepare a report "on the modalities of organizing such a high-level meeting and on related procedural and organizational issues...". It was indeed fairly clear from the outset that a meeting of this nature would in many respects have to be different from the usual type of ECE gatherings, if only because of the need for intensive political and substantive preparations. But it was still too early to visualize how exactly the conference process would unfold and therefore premature to determine the meeting's "format". One of the unknowns was how the actual negotiations could best be handled; this aspect depended on the kind of agreements that could be expected to result from the meeting.

Considerable difficulty arose, especially at the informal East-West discussions during the session, regarding the question of a decision on the actual convening of the meeting and on the related question of its timing. The delegation of the USSR and the delegations of the Eastern countries supporting the Soviet proposal urged that a clear-cut decision to call a high-level meeting should be taken already at the current session and to set an early date for it. But from the Soviet standpoint the setting of a date was, probably, less important than an unequivocal decision by the Commission that such a meeting would be held after due preparation.

In this connection attention should be drawn to the views of certain countries who for substantive reasons were prepared to support a positive decision at the thirty-second session on the calling of a high-level meeting to deal with the protection of the environment.13) As became increasingly evident later, the Nordic countries were soon the driving force for a dynamic and operational approach. The main reason for this active stance was the fact that the Scandinavian subregion was prone to be on the receiving end of transboundary air pollution and had suffered extensive damage thereby. Yet, the member countries of the EEC and also the United States continued to argue both in the public meetings and in the informal contacts that it was impossible to decide definitely whether such a high-level meeting should be called *unless it had clearly been established beforehand that the essential criteria for convening it were met,* i.e. that the meeting did warrant a high-level of representation and did hold promise of important decisions.

The proponents of the proposal were anxious to reach a clear-cut decision on the matter already at the thirty-second session of the Commission in view of the first CSCE follow-up meeting which was due to start in early October 1977, at Belgrade, for they wished to go there with a firm accord on holding a high-level meeting. The other group of countries felt that it would be more prudent from their point of view for the Commission to take the ultimate decision after Belgrade.

Consensus on pre-conditions and further steps

The private negotiations on the shape of the final compromise (and indeed on the entire "package" of the other draft resolutions and decisions) went on right until the very end of the session. They resulted in a consensus text which appeared (as already indicated) in part II of resolution 1 (XXXII)—The work and future activities of the Commission.

The resolution dealt, rather systematically, with all the aspects of the Soviet proposal. Essentially, the compromise solution consisted of two interrelated parts. In the preambular passages of the resolution the Commission recognized that the political authority of the Commission *could* (but not "should") be reinforced by properly prepared high-level meetings, held within its framework. It also agreed on *criteria* which must be met before any such high-level meeting could be held,[14] an important element of the conference process under study, to be reverted to later.

In the resolution's operative section the Commission firstly invited the Executive Secretary to carry out a detailed analysis of topics which, in the light of the views of Governments, might be appropriate for consideration at a high-level meeting on the protection of the environment and to report on this as well as on the organizational and procedural aspects involved in holding such a meeting. Secondly, without adopting a specific decision to hold the meeting, the Commission agreed that it *"will consider constructively at its next session, in the light of the Executive Secretary's reports and against the criteria... set out in this resolution the holding, as soon as practicable, of such a high-level meeting.*[15] Finally the Commission indicated that the study by Governments of the Soviet proposal on the holding of intergovernmental conferences on the remaining two sectors, those of transport and energy, would continue.

On the face of it, it appeared therefore that, on the assumption of positive reports by the Executive Secretary, the Commission would at its next session (i.e. in the spring of 1978), decide to hold a high-level meeting on aspects of environmental protection. However, as will be seen, this did not happen.

NOTES AND REFERENCES

CHAPTER II

1. E/5944 (vol. II).
2. E/ECE/911, paras. 47-48.
3. Condensed from verbatim text of the opening statement by the Executive Secretary, press release ECE/GEN/8, 19 April 1977. Italics added.
4. The replies were circulated informally. The Government of the USSR made available a note dated 16 March 1977 which elaborated the views of the Soviet Union on the proposal and contained a detailed tentative list of topics for the proposed "all-European congresses" in the three sectors. For a listing of the suggestions under the three headings contained in the communications sent to the Executive Secretary, see report of the thirty-second session (E/5944, para. 68).
5. E/ECE(XXXII)/SR.3, paras. 1-7.
6. *Ibid.,* para. 6. Italics added.
7. E/5944, para. 38.
8. *Ibid.,* paras. 35 and 67.
9. E/ECE(XXXII)/SR.5, para. 25.
10. E/5944, paras. 37 and 38.
11. See *Three Decades, op. cit.,* for a list of such instruments (pp. 246-254).
12. "As regards the fields of transport development and energy some delegations felt that these questions did not appear to be equally ready for further action at the current session". (E/5944, para. 39).
13. See, for instance, the statement by the representative of Sweden (E/ECE(XXXII)/SR.5, para. 32).
14. The criteria stipulated that any high-level meeting within the framework of the ECE would require precise and carefully prepared agenda; that the subject matter should require a high-level of representation; that such a meeting should hold promise of important decisions; that the topics for consideration should be of concern to the region as a whole, and not lead to unnecessary duplication of the work of other international organizations. It will be seen that the criteria, as finally agreed, followed, fairly closely, the criteria outlined in the statement made in the discussion on behalf of the members of the EEC. The significance of the criteria is examined later (see Recapitulation and Final Remarks, p. 193).
15. Following adoption of the resolution, the delegation of the United States stated that it was the delegation's understanding that the text which had been agreed to in operative paragraph 3 of part II "did not in any way prejudge the decision to be taken at the thirty-third session *as to whether or not* a high-level meeting on the environment should be held". (E/5944, para. 58, italics added.)

CHAPTER III

PRELIMINARY PREPARATIONS BY THE EXECUTIVE SECRETARY OF THE ECE

Initial analysis of topics: inventorization, scrutiny and identification of suitability for high-level consideration on the basis of agreed criteria

The salient feature of this particular stage in the preparations for the high-level meeting on the protection of the environment, was that it was *the Executive Secretary* who was explicitly charged by the Commission with the primary responsibility for carrying out the first analysis of suitable topics for consideration at such a meeting rather than the Senior Advisers to ECE Governments on Environmental Problems, who had been asked merely to assist. It was presumably considered more appropriate for the Executive Secretary as an impartial international official at the service of the collectivity of the Governments concerned to prepare a balanced presentation of topics which had been communicated to him by the member and participating ECE countries and, after careful scrutiny and sifting carried out from a central international viewpoint, to indicate to what extent these seemed to him to meet the Commission's criteria as set forth in resolution 1 (XXXII), part II. To have asked the Senior Advisers on Environmental Problems, an intergovernmental body, to have undertaken this initial task, might have placed that body both in a difficult and somewhat invidious position and, more importantly, might have pre-empted the Commission's final judgement on the matter. It was therefore right on the part of the Governments to bring in the secretariat at this initial stage of the conference process. On the other hand, the Executive Secretary could not possibly act alone or in a kind of vacuum. The resolution specified that the "detailed analysis of topics" had to be carried out by him "with the assistance of the Senior Advisers to ECE Governments on Environmental Problems" and, "in the light of the views of member Governments".

The Executive Secretary was faced by a complex and delicate task. Admittedly, the Commission had made the basic choice of the general theme on which a possible high-level meeting would focus. It had agreed on a set of criteria which were to be employed in identifying subjects which seemed to require consideration and decision on a high plane of policy responsibility. A number of suggestions on possible topics had already been put forward in the course of the discussions in plenary or made as part of the first *enquête* in communications by some Governments pursuant to Commission decision B (XXXI).

The general theme—protection of the environment—had, of course, multiple aspects and it affected different countries in varying ways and to different degrees depending, for instance, on their geographic location, the structure of their economy and the distribution of their population.

The Executive Secretary's "background paper"

The complexity of the theme had, in fact, been reflected in the suggestions for possible topics made by the Governments. Accordingly the Executive Secretary, a few days after the conclusion of the thirty-second session of the Commission, i.e. on 9 May 1977, wrote to all the ECE Governments with a view to consulting them on the detailed analysis of topics which he had been asked to undertake, and invited them to communicate with him on the matter.

His next step was to convene what was termed a "consultative meeting" (the first of its kind) of the Senior Advisers at a relatively early date (19 to 21 September 1977) and make a start on the analysis by preparing a background paper, in the first instance for consideration at that meeting, so as to facilitate the deliberations of the Senior Advisers on how best to "assist" the Executive Secretary to carry out his assignment. This document, though seemingly "low-profile", played a key role in guiding and orienting the process of selecting a manageable number of topics suitable for a consideration at a high governmental level.

The "Background paper. Note by the secretariat" was circulated in July 1977, as document ENV/R.67. It consisted of three parts. *Part A* listed "the fields identified as providing particularly suitable opportunities for co-operation in section 5 (Environment) of chapter II of the Final Act of the Conference on Security and Co-operation in Europe". *Part B* contained a brief presentation of the topics and subject areas communicated by certain Governments before and during the thirty-second session of the Commission. The secretariat explained that any communication in response to the Executive Secretary's letter of 9 May 1977, "will be circulated, if authorized". *In part C "commentaries" on eleven subject areas* were presented.

In view of the limited number and politically somewhat one-sided character of suggestions of suitable topics available at that juncture it was right for the secretariat to take as a point of departure section 5 of chapter II of the Final Act dealing with protection of the environment which enumerated in some detail the areas which lent themselves to "close international co-operation". The Final Act also gave examples of "forms and methods" of such co-operation.[1)] In part G of the background paper the Executive Secretary carried his analysis further by breaking down the whole into its constituent parts and then by first establishing a consolidated list of eleven subject areas "*derived from those listed in parts A and B*" and, subsequently, proceeding with presenting commentaries on each of them under four separate headings. First under each subject the nature of the *problem area* was briefly described. This was followed by a succinct account of *action taken at the national level* and of the *co-operation at the international level,* combined with an indication of their adequacy. Against this background suggestions were made *on possible action by a high-level meeting within the framework of the ECE.*

Although the present study is focused on the interplay of institutional and political elements within a specific process of "East-West" conference diplomacy, rather than on the substance of the subject-matter, the nature of that interplay cannot be fully comprehended unless the reader has some general idea of the *problematique* of environmental protection. It may therefore be convenient at this stage to give a résumé of problems arising in environmental protection based on, and extracted from, the background paper and arranged under the subject areas chosen. It should, of course, be borne in mind that the extent of knowledge about, and understanding of, the nature and causes of these problems has since then considerably widened.

(1) Transboundary air pollution

Air pollution is not only a problem of densely populated and heavily industrialized areas, but also affects large geographical regions far beyond the major sources of pollution. The acidification of precipitation in Europe and in the North American Continent is largely due to increasing emissions of sulphur dioxide and other compounds from combustion of fossil fuels. Many countries have reported damage and deterioration due to the long-range transport of pollutants. "Acid rain" has been observed in Denmark, Finland, the German Democratic Republic, the Federal Republic of Germany, the Netherlands, Norway, Poland and Sweden. Since the emission of sulphur compounds is relatively low in Norway and Sweden, the damage appears to be the result of transboundary air pollution. The problem is becoming increasingly serious. The experience of numerous countries shows that effective measures can be taken to reduce emissions of some air pollutants, for instance by desulphurization of fuels or restriction of fuel with high sulphur content. Measures to control the transport of air pollutants across boundaries are the subject of many bilateral intergovernmental agreements.

At a multilateral level, in response to the recommendation contained in the Final Act, work began on a project (carried out under the auspices of ECE through co-operation with ECE, WMO and UNEP) to develop an extensive co-operative programme for the monitoring and evaluation of the long-range transport of air pollutants (see below under (9)). But the above-mentioned international activities did not then envisage specific measures on the international plane to bring about a solution. With this in mind, Norway, with the support of Sweden and Finland, proposed at the fifth session of the SAEP (February 1977) an international convention on the reduction of air pollutants causing transboundary air pollution.

(2) Control of toxic substances and toxic wastes

According to estimates, world production amounts to more than 30,000 substances. Serious hazards are caused either as a result of massive local discharge of toxic wastes into the environment or by an accidental release of toxic by-products. Assessment and regulation is a difficult task, but it would seem feasible to draw up a limited list of toxic chemicals and wastes with high risk for human health and ecosystems. The international discussion of the problem is gaining in importance with wider trade flows. Legal or administrative provisions for the control of toxic wastes, of toxic chemicals and wastes which have been introduced in most ECE countries tend to be scattered over a variety of legal texts related to the protection of the environment.

A number of international organizations, such as WHO, UNEP, OECD and CMEA, have been involved in initiating co-operation at the international level. For several years, ECE, through SAEP, has considered common approaches to the control of discharges of toxic wastes and toxic chemicals into the environment.

(3) Protection of the marine environment

Most coastal zones and the seas in the region, which are of vital socio-economic importance, have long been dumping places for municipal and industrial waste. This is causing increasing concern. Sewage treatment plants have been built, and a number of regulations applying to urbanization, tourism development etc., introduced. In practically all ECE countries with a coastline, some legal provisions for the protection of the marine environment exist, but there is urgent need to improve and harmonize the various legal instruments. A number of global, regional and subregional conventions and agreements have been signed during the last decade and such international organizations as UNEP, FAO, UNESCO, WHO and IMO have been closely associated with their preparation and implementation.

(4) Transboundary rivers

Water has numerous and vital functional uses in the national economies of the ECE region, including water supply for domestic, industrial and agricultural use, navigation, hydropower production, conveyance of waste, fishing and recreation. The problem of water supply and the protection of water against pollution are closely interlinked. Most ECE countries have set up programmes for the protection of resources against pollution, and have enacted legislation to promote the efficient use of water. Since in an increasingly interdependent region, such as the ECE region, the use of water in one country may substantially affect that of another country in the same basin, many international agreements have been concluded, some within the framework of international river commissions. Water pollution control has generally received more attention than water quantity, but it has become evident that both quality and quantity are two aspects of the same problem. The concept of integrated water management has thus gradually emerged. In the Action Plan of the United Nations Water Conference (1977) it was recommended for the ECE region that in the case of transboundary river basins and other shared waters, the active co-operation of the riparian States should be promoted, wherever possible, through regional conventions and the harmonization of long-term national plans of riparian States, with a view to developing a joint plan. In October 1976, the ECE Committee on Water Problems decided to keep under review the progress made in the prevention and control of water pollution, particularly in transboundary rivers and international lakes, in order to provide a basis for co-operation among interested countries in the spirit of the Final Act of the CSCE.

(5) Low- and non-waste technology

Early attempts to cope with the economic, social and environmental consequences of the mounting industrial and municipal wastes were focused on the final stages of the manufacturing, marketing and consumption processes. More recently it is increasingly recognized that steps to reduce waste could be taken from the extraction of the raw materials to the disposal of the final consumer goods, by means of low- and non-waste technology, i.e. the planning and management of human activities with minimum waste of materials and energy. This concept is implied in efforts to direct technology developments and waste management in order to save energy resources and to protect the environment. Many industrial firms have already taken specific steps in this direction, but few Governments have as yet formulated explicit national policies with this end in view. At the international level, ECE's Senior Advisers on Environmental Problems have been engaged on the study of this particular problem since 1973, and a major seminar on the subject was held in Paris in 1976. CMEA's efforts in this field at the subregional level culminated in a seminar held during the same year. UNEP has initiated work in the broad field of environmentally sound and appropriate technologies, of which low- and non-waste technology is a major component.

(6) Land use and land-use planning for environmental protection

In the highly interdependent societies of the ECE region there is a need for rational guidance of land-use changes in order to avoid excessive encroachment on prime agricultural and forest land and to prevent environmental damage. Inadequate data and information on current land-use problems and lack of uniform criteria for classifying land use and determining the suitability of different land for specific purposes are major obstacles to the formulation of effective land-use policies. Traditional technical and administrative structures are not well suited for dealing with intersectoral and international problems of land use. Increasingly, ECE Governments are recognizing land-use planning and control as an efficient instrument for environmental protection. All Governments are faced with the difficult problem of allocating land for competing purposes in the long-term interests of national development.

Many problems connected with land-use policy in the ECE countries can be treated only in a regional context. So far international co-operation has been mainly concerned with exchanging views and information. A number of research projects on problems of land-use planning are being carried out by UN agencies and other international organizations. Considering the importance of developing more comprehensive approaches, the ECE at its thirty-second session adopted a decision aimed at identifying the problem areas in land use and land-use planning requiring international co-operation.[2)]

(7) Environmental aspects of human settlements

The rapid pace of the largely uncontrolled urbanization process has given rise to a number of environmental problems in human settlements throughout the region. Practically everywhere, the quality of urban life is seriously affected by contaminated air, polluted water, excessive noise levels and lack of recreational amenities. Rapid changes in socio-economic structures have frequently resulted in environmental disruption (city "cores" becoming functionally obsolete, while suburban areas are suffering from lack of appropriate services and community facilities). There is consequently a mounting pressure for better integration of physical planning with economic and environmental planning combined with adjustments of institutional arrangements. To achieve this, new administrative bodies and better co-ordination among existing agencies have been brought about in many countries of the region. Amongst the measures taken reference may be made to steps to reduce air and water pollution caused by domestic and industrial heating.

At the international level questions arising from the development of human settlements are dealt with in a number of UN units and in other international bodies.

The United Nations Conference on Human Settlements, which took place at Vancouver in 1976, was the first major international conference on the future development of human settlements. It adopted a large number of recommendations for action at the national level, and for international recognition of the importance of international action, especially at the subregional and regional levels.

(8) Co-operation of environmental research centres

Environmental problems are multi-disciplinary in nature implying the need to use a wide range of scientific knowledge so as to arrive at viable solutions. Partly because of the complexity of the *problematique* of the protection of the environment there is a great and urgent need for improved international co-operation among environmental research centres, capable of responding to specific needs and situations. A number of UN agencies and other international (including non-governmental) bodies have encouraged such co-operative activities. Several agreements have been concluded at the bilateral level.

(9) Monitoring of the state of the environment in the ECE region

Effective environmental management requires the support of periodic and comprehensive information on environmental conditions. All ECE member countries have initiated monitoring programmes for specific pollutants, many of them using standard concepts and methods for sampling and measuring on a national scale. At the international level, monitoring programmes have been initiated or are under consideration in a number of international organizations. The most comprehensive among these schemes is the Global Environmental Monitoring System (GEMS), whereby a number of specialized agencies of the United Nations make their programme reports directly to GEMS. For instance, within the World Weather Watch programme of WMO, climate-related atmospheric monitoring of sulphur dioxide and particulates in urban areas has been carried out since 1973 and is now an input to GEMS. The ECE Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP) began with sulphur dioxide,[3)] and currently includes other major air pollutants, such as NO_X.

(10) Elaboration of a legal and administrative basis for settling disputes between States as a result of transboundary pollution and other environmental damage

As is recognized in Principle 21 of the Stockholm Declaration of the United Nations Conference on the Human Environment (1972), environmental problems can be a potential source of serious international conflicts or disputes frequently arising as a consequence of unilateral measures to promote national interests, irrespective of the impact on third countries. Some of the disputes have led to legal settlements or agreements of a bilateral or multilateral nature. However, international environmental law is still in the early stage of development. It is clear that any legal system for environmental problems should contain provision for the prevention of disputes. Some progress is being made. Thus, within the framework of Principle 21 of the Stockholm Declaration Governments of States Members of the United Nations have acknowledged the responsibility of States "to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction".

In accordance with Principle 22, States have stressed the need for co-operation "to develop further international law regarding liability and compensation for the victims of pollution and other environmental damage". In the Helsinki Final Act participating States further declared that they will develop co-operation by "promoting the progressive development, codification and implementation of international law as one means of preserving and enhancing the human environment...".[4)] Principles defining responsibility in connection with transboundary pollution have been agreed within the OECD. Several agreements containing provisions for the handling of transboundary environmental problems have been reached within the CMEA framework. A programme which is intended gradually to lay down legal obligations for the protection of the environment in frontier zones has been adopted by the Commission of the European Communities. Subregional legal instruments, such as the 1973 Nordic Pollution Convention and the 1974 Baltic Pollution Convention, contain provisions for machinery for the settlement of disputes.[5)]

(11) Environmental aspects of the use of chemical fertilizers and pesticides

The widespread use of chemical fertilizers and pesticides has contributed to a growing demand for improved food but their excessive or ill-advised use is giving rise to many environmental problems. For instance, as only part of the nutrients can be absorbed by the plants, the excessive use of fertilizers will cause leaching into ground and surface water. The major problem involved in the use of pesticides is that many of them are biocides, which kill indiscriminately. Very few multi-disciplinary studies which are needed in order to clarify the impact of chemical fertilizers and pesticides on the environment have so far been undertaken. Work in progress in various international bodies consists mainly of limited studies and exchanges of information. Within the framework of the Man and Biosphere (MAB) Programme, UNESCO and FAO are engaged in an evaluation of the impact of fertilizers and pesticides on ecosystems.

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The above condensed extracts from secretariat's "commentaries on subject areas" provide a brief factual résumé of the situation *at the time* and also throw some light on the way in which the Executive Secretary intended to present his "detailed analysis" of topics which, "in the light of the views of the member Governments may be appropriate for consideration at a high-level meeting within the framework of the ECE on the protection of the environment".

Method of analysis used

The first aim was to delimit the scope of the examination by proposing a fairly extensive but nonetheless manageable list of subject areas based mainly on an already governmentally agreed inventory. Even to the eyes of a non-specialist the topics indicated and commented on are clearly of different ranking in terms of policy importance and priority, but the secretariat deliberately refrained, at that early stage, from making any judgement as to an order of preference, although in some cases the commentaries did indicate that particular phenomena seemed to constitute major threats to the environment and that action, especially at the international level, so far undertaken, left scope for further development.

To emphasize its initial caution and detachment the secretariat also avoided expressing any views as to the degree of suitability of particular subjects for consideration by the Governments at a "high level". At this initial stage of the preparations it was right and proper that the Executive Secretary, for purposes of his analysis, included each and every subject area, even if proposed by only a single Government, in the inventory of potentially suitable subjects for consideration at high-policy level. It was of course evident that many, if not the bulk, of the subjects would ultimately be eliminated or merged by means of negotiations so that only a manageable number of those subjects would in the end be retained for inclusion in the agenda of a high-level meeting on which general agreement could be reached. The criteria contained in resolution 1 (XXXII) part II were a useful guide, but a decision by the Commission on whether or not these criteria had been met depended on the ability of all Governments to prune the list of possible subjects in such a way as to identify a limited number of topics which, in the opinion of all, so qualified. The process of reaching this ultimate goal was bound to be an arduous one, given the differences in the perception of priorities, in material interests, and in internal economic and social systems of the countries involved. All these elements had to be reconciled. The additional difficulty of agreeing on the *degree of maturity* of an otherwise suitable topic, and on the adequacy of preparations had to be resolved before a final decision on the scope and timing of a high-level meeting could be reached.

The "commentaries" by the Executive Secretary were also deliberately "detached" and "even-handed". They did not seek to pass any judgement on the relative merits of the subjects listed, but limited themselves to indicating, under each subject area, the content and form of "possible action by a high-level meeting within the framework of the ECE".

In carrying out his analysis, aimed at assisting Governments in choosing a limited number of suitable topics for consideration at a high-level meeting, the Executive Secretary had to bear in mind several aspects. The criteria adopted by the Commission imply that in order to qualify for inclusion in the list of subject areas potentially suitable for a high-level meeting, the topics must be ripe for intergovernmental consideration *on the plane of policy*. One test of maturity is that the subject in question has already been dealt with at the technical level, but cannot be carried further, let alone solved solely at that level. But also qualifying are newly emerging problems which may require intensive research and technical scrutiny whose effective study nationally, and especially internationally, cannot be put in hand without a policy decision.

Yet another noteworthy feature is that high-level meetings must produce action-inducing and action-ensuring accords or instruments. These can all be classified as "instruments" in the sense that they represent formally adopted decisions though they may differ in form depending on the nature of the subject and the policy objectives aimed at. *But all must embody commitments on specific action at a policy-level.* It is this characteristic of the result expected of a high-level meeting within ECE that distinguishes such a gathering from the deliberative or predominantly technical meetings. The format of a decision adopted at a high-level meeting is of some importance for it affects the way in which the Governments concerned wish it to be implemented. The secretariat envisaged several possible forms of agreement, such as an "agreement in the form of a framework Convention", or a convention of a more specific character.[6)] These categories of decisions represent instruments well established and defined in the international law of treaties. Reference was also made in the background paper to a series of regional agreements which are general in character (as, for instance, envisaged under subject area (3)), embodying the commitment of Governments to co-operate in the protection of the marine environment but supplemented by specific subregional conventions intended to regulate such co-operation in relation to regional seas.

One type of agreement which is envisaged (under subject area (8)) refers to the establishment of an administrative structure which therefore would not seem to require legal procedures for its entry into force, but could be implemented by means of administrative action of the Governments.

One distinct and clearly non-legal instrument (under subject area (5)) was a possible "Declaration concerning joint action" on a particular topic (which in the event figured amongst the three decisions adopted by the High-level Meeting).

Consultative Meeting of the Senior Advisers on Environmental Problems

The two-page report of the Consultative Meeting of the Senior Advisers (which was essential to enable the Executive Secretary to prepare his report for the Commission) contained three paragraphs on the Meeting's central item, i.e."Consideration of topics", a text sufficiently brief to merit quotation.[7]

> "12. On the invitation of the Chairman, delegations commented on topics which, in the light of the views of member Governments, may be appropriate for consideration at a high-level meeting within the framework of the ECE on the protection of the environment". Emphasis was laid on the criteria set out in part II of Commission resolution 1 (XXXII), for *selecting* topics.
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> "13. In discussing the subject areas outlined in document ENV/R.67, *suggestions* were made that it might be desirable, in several cases, to *merge some aspects of the topics.* It was also felt that that *certain topics might require either expansion or narrowing of focus.* Many delegations stated that *the number of topics to be considered at a high-level meeting ought to be limited.*
>
> "14. Summing up the result of the discussion, the Executive Secretary expressed his gratitude to the participants for their constructive contribution and assured them that full use would be made of their advice. *He would take into account all proposals that had been made.* He considered that the meeting had been a great step forward...".

The *substantive record* of the Meeting, which appeared as an addendum to its report (ECE/ENV/17/Add.1), constitutes a major source of documentary evidence on the unfolding of the process of a gradual narrowing down of the number of possible subject areas from which a final selection of topics for consideration by a high-level meeting could be made.[8] The document also contains résumés of the views of individual Governments. It therefore needs to be summarized.

In his opening statement to the Consultative Meeting the Executive Secretary emphasized that delegations could supplement his list of subject areas for analysis by other topics. The discussion would presumably concentrate on whether or not the subject areas under consideration met the criteria laid down by the Commission. But the Executive Secretary added that a prerequisite for the success of any high-level meeting was that the number of subjects to be dealt with would be limited. He made it quite clear that his task was one of analysis which he was undertaking in "constant consultation" with the Governments. The final selection of topics was a matter for the commission.

On the suggestion of the Chairman of the SAEP the discussion consisted of three stages: (1) general comments on the background paper (ENV/R.67); (2) comments on each of the topics listed in that document, as well as on the additional subject relating to protection of flora and fauna which had been proposed as a possible topic for a high-level meeting; and (3) a concluding discussion in the light of the dispositions of the first operative paragraph of Commission resolution 1 (XXXII), II, whose prime purpose was "to assist the Executive Secretary to carry out a detailed analysis of topics" and to enable him to elicit and clarify the views of Governments on the appropriateness of topics for consideration at a high level.

In order to appreciate the manner in which the Executive Secretary carried out his analysis, the main trends and features of the discussion are briefly indicated under each of its three headings.

Amongst the general considerations which were advanced was that *any high level meeting should focus on practical solutions,* rather than on principles. Topics should be combined, merged and consolidated with a view to the drawing up of a manageable and selective agenda. The question to be dealt with at a high-level meeting should not be purely technical, but be matters of general interest on which decisions of both political and social relevance should be adopted. Care should be taken that these decisions were duly implemented so that they would lead to tangible results. Different, if not differing views, were expressed on the desirability of decisions regarding certain topics assuming a legally binding form, such as a convention, but there seemed to be a meeting of minds that the decisions adopted at a high-level meeting must embody *commitments* on the part of the Governments.[9)] One representative observed that a *high-level meeting* was different from the usual type of UN meeting inasmuch as it *implied the need for negotiations.*

Already at this first stage of the exercise it appeared that *transboundary air pollution commended itself to virtually all representatives as a topic fully meeting the criteria set out by the Commission.*[10)] This impression was confirmed when this topic was examined in detail during the second stage of the discussion. Perhaps the most forceful statement was made by one of the representatives of the Scandinavian countries, a subregion particularly affected by this type of pollution. He observed that the subject had received considerable attention at the technical level in ECE and other international organizations. It raised problems of concern to the region as a whole. It was an urgent problem requiring consideration at policy level and its discussion at a high-level meeting could result in an agreement on concerted action. The question of transboundary air pollution was closely linked with a number of other topics proposed for possible consideration at the high-level meeting, including low- and non-waste technology, monitoring and legal provision regarding liability for environmental damage.

No attempt is made to include here summaries of the often highly technical statements made by representatives on each of the remaining items. These are, of course, on record, both in document ECE/ENV/17/Add 1, and more selectively in the report by the Executive Secretary on his "detailed analysis" submitted to the Commission at its thirty-third session (E/ECE/936 and Corr.1.), but reference to the remarks that seemed helpful in facilitating the task of analysis, such as the streamlining the first "maximum" list, would appear justified.

The Senior Advisers combined specialist knowledge of the entire problem area of environmental protection with awareness of, and indeed involvement in, the policy implications of the topics under consideration. They were fully conscious that the main assistance which they could render to the Executive Secretary was to make suggestions as to how, by ascertaining the ranking and the urgency or "immediacy" (a term used on several occasions) of, and the interconnections between, the various topics,[11)] certain of them could be merged, incorporated into a broader item or else dealt with by ECE in ways other than by a high-level meeting, or deferred altogether. At the end of the exercise it might then be possible to arrive at an agreed list consisting of a limited number of major topics suitable for consideration at a high-level meeting.

All this was plausible enough but easier said than done. The many topics suggested by the Governments not only reflected the complex and multi-faceted nature of the problem of environmental protection but in many cases stemmed from specific national needs and preoccupations.[12)] Besides, once a Government makes a formal proposal within a multilateral forum, the unwritten rules of conference diplomacy require that such a proposal be fully explained, justified, defended and pressed, before the delegation concerned can be expected to withdraw it, usually on condition of some kind of a "trade-off". From a purely substantive point of view, most if not all subjects put forward merit consideration so that the final choice is objectively not an easy one to make. Besides, as one delegation remarked, the process of successive "selection" could be taken too far.[13)]

Yet, despite the inherent difficulties of trimming the list of subject areas, the exercise was, no doubt, of great usefulness to the Executive Secretary. As will be seen later, he was able to present to the thirty-third session of the Commission a consolidated list of five, instead of the original eleven, subject areas, although (as the Executive Secretary announced at the Consultative Meeting) a new subject — the protection of native flora and fauna — was added. Furthermore, the discussion not only provided additional substantive material concerning the various subjects but also assessments by Governments of the degree of urgency or "immediacy" of particular subjects and their expectations and *desiderata* on the kind of action at the national and international levels which needed to be taken and could only be taken at a high level. All this gave valuable indication of the direction in which further preparatory work could best be steered so as to enable the Commission to arrive at an agreed collective judgement on an "optimum" programme for a high-level meeting.

The "concluding discussion" at the Consultative Meeting was particularly useful inasmuch as it provided an opportunity for the Senior Advisers to present any further thoughts on the topics discussed and for a further clarification of the distinctive nature of high-level meetings held within the framework of the ECE. Consideration was also given, at the suggestion of the Chairman, to the advisability of merging topics (3) and (4) (i.e. Protection of the marine environment and Transboundary rivers) to form one broad topic on water pollution.

A forthright and highly positive assessment regarding the purpose of a high-level meeting was put forward by the representative of Sweden. He said that such a meeting should be viewed *"as one step in the process of developing ECE's potential to strengthen continuing co-operation among its members. A first high-level meeting should therefore be followed by others whenever developments required action at a high political level.* The strengthening of international co-operation within ECE was part of the broader concept of détente, and the holding of large superficial gatherings every five or ten years... was no substitute for action-oriented... meetings... Although the form and content of the high-level meeting was a matter for decision by the Commission, the Senior Advisers were required to assist the Executive Secretary in his analysis of topics and must try to ensure that the gap between what was desirable and what was possible was not so wide that the decision to hold a high-level meeting was postponed."[14)]

The representative of the USSR observed that "despite the alarm earlier expressed... delegations were now prepared to provide the Executive Secretary with a business-like indication of the topics which they considered worthy of consideration at a high-level meeting... *The proposed meeting... should not be regarded as a routine measure... but as a special event* of the implementation of the provisions of the Final Act of the Helsinki Conference... The discussion had shown that topics fell into two categories: those on which there had been agreement... and those for which further study was required."[15)]

The representative of Austria "fully agreed with the view that *a high-level meeting should constitute a breakthrough in environmental awareness in the ECE region* from which fruitful practical co-operation in many spheres could flow. *The results of such co-operation would, however, be modest or negligeable without a strong feedback effect on national environmental policies.*"[16)]

The representative of Finland stated that "the discussion had shown that the topics for such a meeting should be limited and that at least two — transboundary air pollution and low- and non-waste technology — appeared to have general support. A second category of topics... required further consideration." Certain topics appeared "either to have aroused little interest or appeared not to meet the criteria which had been laid down. Certain elements of the topics in that third category, however, might nevertheless be included in the consideration of the other topics."[17)]

The last speaker in the concluding discussion was appropriately the Executive Secretary himself. After thanking the delegations for their participation "in a most fruitful dialogue", he said that he "intended to submit for the Commission's consideration an analysis of all the topics which had been proposed either in the replies of Governments to his letter... or at the meeting... [T]he establishment of priorities was not a matter either for the present meeting or for his forthcoming analysis. He would, however, have to indicate the extent to which topics appeared to meet the Commission's criteria. In that connection, the comments of the representative of Finland and other representatives had been extremely useful. The discussion had indeed shown that *there were certain issues on which it would not be difficult to demonstrate that the criteria had been clearly met.* In the case of some other topics, considerable further work was required, particularly in relation to the criterion that *topics should hold out promise of important decisions. Such decisions did not necessarily have to take the form of binding legal instruments* since a unanimous declaration by high-level officials could often exercise a strong political and moral influence on behaviour. *A third group* was composed of topics for which *evidence of possible duplication had been adduced or for which a clear prima facie case had been made that they were not yet sufficiently mature for fruitful consideration at a high level.* He had been generally encouraged by the discussion which he considered as a significant breakthrough in the history of ECE."[18)]

The Executive Secretary's report on a detailed analysis of topics

The Executive Secretary was thus in a position to prepare his report to the thirty-third session of the Commission, though, no doubt, he had further discussions and consultations before finalizing this key document which appeared some two months after the Consultative Meeting of the Senior Advisers (E/ECE/936).[19)] Not surprisingly, the structure of the document was similar to that of the background paper prepared by the secretariat for the Consultative Meeting. Once again a list of "Fields of co-operation" (in environmental matters), derived from section 5 of the second chapter of the Final Act was reproduced for easy reference as part A consisting of eight subject areas. As in the background paper there were two further parts, B and C. But there were substantive differences between the two documents. Part B of the report was much more elaborate in that it contained a full listing of "all topics and subject areas suggested by Governments... with an indication of origin", i.e. of the proposing countries; these were grouped under *twenty-four headings* (while part B of the background paper contained the communications, then available, from a rather limited number of countries, arranged under *eleven headings).* Whereas part C of the background paper consisted of the commentaries by the secretariat on those eleven headings, the corresponding part in the Executive Secretary's report embodied *his analytical consolidation* of all topics into five broad subjects areas together with his commentaries. List B reflected the considerable importance all ECE Governments accorded to the question of the protection of the environment. The sum total of the suggestions constituted a comprehensive and detailed inventory of current problems, concerns and preoccupations of Governments related to the subject.

Nevertheless the inventory was selective since it enumerated only matters which were deemed by Governments to be suitable for consideration at a high-level meeting, i.e. those which in their view met the agreed criteria. The aim of list B was thus to give a full, objective and balanced picture of concerns of each and every Government of ECE countries that had responded. The wide scope of the suggestions appears more clearly from its detailed breakdown, and an indication of the degree of interest shown can be gauged from the number of countries which made them. Part B was important also because, thanks to its detailed and comprehensive nature, *it enabled Governments to compare others' interests* in the various aspects of the protection of the environment which were listed.

Many suggestions came from the original protagonists of the proposal, but an appreciable number of subjects was put forward by other ECE countries. In "parliamentary" terms the greatest number of "votes" was given to the two topics which were finally chosen by the Commission for the agenda of the high-level meeting, i.e. (1) transboundary air pollution; and (2) low- and non-waste technology.

In a wider sense the list was indicative of the growing realization by Governments that many of the environmental problems could be tackled only by international co-operation and called for a measure of co-ordination of national policies. Indeed, one of the salient features of what had turned out to be a veritable *grande enquête* was that Governments did not limit themselves to indicating the internal manifestations and effects of particular environmental problems and to pointing to the general desirability of working together, but in a number of cases themselves spelled out the desirable modalities of an effective co-operation at the international level. The drawing-up of the inventory proved important not solely because it served as a basis for the ultimate choice by the Commission of the topics for the high-level meeting, but because it had also the effect of stimulating the activities of the ECE and of other international organizations in the environmental and related fields.

For the Executive Secretary the drawing up of his consolidated list presented in the third part of his report would have been impossible without a meticulous item-by-item scrutiny of list B, designed to identify those broad subject areas which, in addition to meeting the criteria, appeared to be of general interest and commanded the widest degree of support. These were: (1) transboundary air pollution; (2) low- and non-waste technology; (3) transboundary water pollution; (4) control of toxic substances and toxic wastes; and (5) protection of native flora and fauna and their habitats.

Though this final list subsumed some of topics which figured in list B, it had to be highly selective to serve its purpose, i.e. to provide a manageable number of items from which the Commission was expected to make the final selection. The analytical approach was the same as that developed in the background paper, i.e. it consisted, with respect to each of the five subject areas, of four sections of both a descriptive and an analytical character:

I. Problem area;

II. Action taken at the national level;
III. Co-operation at the international level; and
IV. Possible action by a high-level meeting within the framework of the ECE.

But both substance and analysis had been firmed up, sharpened and made more specific, particularly as regards the modalities of possible actions.

Careful study of the methodology employed by the Executive Secretary in his report — in a step-by-step consolidation of the topics suitable, and generally acceptable, for high-level examination — is therefore essential to an understanding of the conference process under investigation, and of any further similar exercise. From a scrutiny of the presentation by the Executive Secretary of the first two topics ultimately selected by the Commission for the high-level meeting, i.e. transboundary air pollution, and low- and non-waste technology,20) it will be seen by comparing the first topic (transboundary air pollution) with the survey contained in the background paper that the definition of each problem area had meanwhile been considerably refined, expanded and rendered more "diagnostic" rather than descriptive. While the subject meets the criteria set out in Commission resolution 1 (XXXII) the notions of "urgency" and "immediacy" appeared to have been tacitly added to these criteria.

During the discussions at the Consultative Meeting of the Senior Advisers the view was expressed that subjects should be "mature" for high-level treatment. The term "maturity" is, as previously stated, open to different interpretations. In some cases it may mean that the subject has been as fully explored internationally in purely technical terms as is possible and that, if further headway is to be made, it should now be examined at a policy level. There are other cases, however, where, because of the relatively recent origin of an environmental phenomenon, little or no effective research work could in fact have been undertaken, either nationally and/or internationally; and that therefore a policy decision, at international level, is needed for such work to be conducted in a more co-ordinated, concerted and purposeful manner, and kept under review from a central vantage point. There are further cases, where the effects, both national and international, of a particular type of pollution are so patently damaging that prompt international measures coupled with an assurance of their implementation are urgently needed. This characterization seems to apply to the phenomenon of transboundary air pollution.

While ongoing co-operation at the international level to control the transport of air pollutants was duly recorded in the report, the Executive Secretary pointed out that these activities *"do not yet envisage specific steps towards effective action"*21) at that level. Attention was drawn to the proposal made by the delegation of Norway, supported by Sweden and Finland, for an international convention on the reduction of emissions causing transboundary air pollution.

The last section under each substantive heading of the Executive Secretary's consolidated list consisted of two paragraphs. The first contained a summary of the findings of the analysis, while the second indicated the points on which "the Commission may wish a high-level meeting to seek agreement — *through appropriate instruments"*. However, the Executive Secretary was much more reticent in spelling out the precise nature of instrument which he considered appropriate to a particular topic than he was in the background paper. This cautious attitude was, no doubt, due to the Executive Secretary's conviction that for many obvious reasons it would be proper to leave the decision as to the precise form and status of a possible agreement, i.e. either legally binding or merely politically committing or some combination of both, to the Governments themselves. This judgement proved to be fully justified. Only in one case, that of transboundary air pollution, did the Executive Secretary consider the evidence in favour of a legal regulation of the matter so convincing that he did state, in the first paragraph of the section on possible action by a high-level meeting, that "in the analysis it has been borne in mind... that work at expert level within ECE... had reached a stage where important decisions on co-operation *in the form of a framework convention or other legally binding agreement* could be envisaged".22)

The treatment in the report of the second topic (low- and non-waste technology) also exhibits a much greater degree of analytical depth than was the case in the background paper as a result of further work by the secretariat and of advice given at the Consultative Meeting of the Senior Advisers. Thus, when analysing the phenomenon the Executive Secretary observed that whereas the early attempts to cope with waste generation, resource depletion etc., were focused on palliative measures at the end of the production processes, the tendency was now to prevent damage by intervening at the stage of technology development, and, consequently, by envisaging the introduction of a new category of technology, i.e. "low- and non-waste technology". Since the concept embodying a comprehensive approach to the environmental problems of industry was of relatively recent origin, no Government had as yet formulated an explicit policy for its implementation at the national level. At the same time, *"understanding of the concept as a guide to policy has proceeded to the point where agreement on principles for practical action could be envisaged".*23) Thus, it would appear from the Executive Secretary's analysis that, in this particular case, progress on the national plane required guidelines for practical action agreed at a high level of international decision-making "through appropriate instruments".

Procedural and organizational aspects of the high-level meeting

The analytical report was one of two documents relating to a possible high-level meeting on environment which the Executive Secretary had been asked to present to the thirty-third session of the Commission. The second report was to deal with "the modalities of organizing a high-level meeting within the framework of the ECE on the protection of the environment and on the procedural and organizational issues related thereto". This rather brief document was issued in early January 1978 (E/ECE/937). Although presumably very carefully examined in the capitals in the light of the early controversy as to whether the proposed meeting should be held in association with, or "within the framework" of, the ECE, the document was not discussed in any detail at the thirty-third session of the Commission but simply referred to in Commission resolution 1 (XXXIII) as having been considered. One possible reason for this was that, since no definite decision on holding the high-level meeting could be reached at the thirty-third session, it seemed premature at that stage to go into the procedural and organizational issues in any detail. When the decision to convene the meeting at the end of 1979 was finally reached at ECE's thirty-fourth session in the spring of that year, the procedural and organizational issues were in fact clarified by the manner in which the agenda for that meeting was framed. Nevertheless, the second report by the Executive Secretary was a key document which provided the necessary background guidance and it was taken into account not only in the above-mentioned Commission resolution but throughout the subsequent process of preparations for the high-level meeting.

The Executive Secretary's second report (E/ECE/937) dealt with the matter under the following headings:

1. ECE framework;
2. Agenda;
3. Preparatory process;
4. Secretariat;
5. Participation;
6. Rules of procedure;
7. Timing and duration;
8. Location;
9. Financial implications;
10. Public information;
11. Results of the high-level meeting and follow-up measures.

The gist of the Executive Secretary's considerations in his second report is as follows: the Commission's decision to convene a high-level meeting on the protection of the environment would be taken against the background of the five criteria for such a meeting included in part II of resolution 1 (XXXII). Since it would be held within the ECE framework, the "existing ECE machinery would be fully utilized".

Basic decisions on "a precise and carefully prepared agenda" might be adopted by the Commission itself taking into account the Executive Secretary's report (E/ECE/936). It was also up to the Commission to give guidance on the nature of the preparatory process. In this respect the Commission would have several options: the preparation of an extensive analysis of individual topics, indicating the major policy options on which decisions would be sought or taken; the elaboration of policy position papers for consideration at the meeting followed by further work; or the formulation of draft documents for consideration and approval by the meeting.

The preparatory process would most appropriately be developed by the SAEP, or alternatively, by a special *ad hoc* preparatory body which might establish subsidiary working groups of governmental experts to deal with specific topics.

The professional staff of the ECE would furnish the substantive support for the preparatory work and the meeting. Technical services during the preparatory stage and for the high-level meeting itself would be provided from the resources available to the ECE for its regular activities. All members and participants of the ECE would be eligible to take part fully in the meeting in accordance with the Commission's terms of reference and its rules of procedure. Members of the UN not members of the ECE might participate under article 11 of the terms of reference. ECE's rules of procedure would apply to the bodies engaged in preparatory work and to the high-level meeting itself. The timing and duration of the meeting would depend on the preparatory work. Preparations might take *up to a year, and even more, if a convention were to be negotiated at the expert level.*[24)] If the meeting were convened to give general guidance for further work within the ECE or for the purpose of approving documents already prepared in more or less final form, it could be expected to last two to three days. A longer period might be required if negotiations were contemplated at the meeting. If the meeting were organized on alternative lines consisting of several phases, its duration would be more difficult to foresee. As regards the financial implications, the Executive Secretary stated that he was prepared to make internal staff adjustments and re-schedule other activities so as to provide support to the preparatory process and to the high-level meeting from the authorized resources available to the

ECE. If the documentation required could be absorbed within the general quota for ECE documentation, no administrative problem would arise. A carefully conceived programme of public information commensurate with the importance of the meeting would be carried out for the ECE by the United Nations Office of Public Information. The results of the meeting could be visualized in various forms, such as declarations of intent or statements of agreed policies; statements of principles; specific mandates for further action; legally binding instruments.

The institutional and policy impact would depend on the nature and substance of agreed decisions. It could provide guidance and give additional impetus to ECE's work programme in the areas concerned; adopt important decisions of concern to the region as a whole; awaken and stimulate public awareness of certain problems of crucial importance; suggest adaptations of existing institutional arrangements or the creation of new ones.

In summary, the Executive Secretary's report provided a carefully considered though deliberately succinct outline of the "model" of a high-level meeting (and its alternative variants) within the framework of the ECE on a major issue-area of region-wide concern as a new form of UN regional conference diplomacy in an East-West setting. The model was conceived not just as an administrative structure, but rather as a framework of a dynamic process which could develop in different ways, and assume different forms, depending on the options chosen by the political actors. But irrespective of the preferred format it would exhibit similar characteristics and modes and be motivated by the central objective to bring about a more effective and regulated international interaction and co-operation between States in a vital sector, including its policy aspects.

The report explained what it meant to hold a meeting within an existing UN framework. It delineated the tasks of Government representatives at expert and policy levels on the one hand, and of the secretariat on the other. The report also brought to light certain procedural and administrative advantages of linking the meeting with the UN framework, such as the possibility, despite the regional character of the proposed gathering, to open it to all interested Members of the United Nations and to global specialized agencies, thereby ensuring that regional endeavours do not run counter to, but, on the contrary, help promote, and become building-blocks of, any global efforts in same domain, which was increasingly acknowledged as forming part of a strategy of global survival.

On a more prosaic but nonetheless important plane the report explained how, under certain conditions, it would be possible by flexibility, discipline and hard work to absorb the workload and the administrative costs, arising from the preparations for, and the holding of, a major conference. In the event, the high-level meeting proved to be a highly economical and efficiently managed exercise.

Keeping the first CSCE follow-up meeting at Belgrade informed

While the Executive Secretary and his staff were preparing for a constructive discussion of the question of a high-level meeting (and indeed of other important items) at the Commission's thirty-third session which was scheduled to open on 11 April 1978, the first CSCE "follow-up meeting"for a thorough exchange of views both on the implementation of the provisions of the Final Act and of the tasks that had been defined by the Conference, was proceeding in Belgrade. The Belgrade Meeting convened on 4 October 1977. Shortly thereafter, on 10 October, the Executive Secretary, in response to an invitation extended to the ECE by the Preparatory Meeting for Belgrade to make a contribution, addressed the gathering "to inform its participants of the progress made in the ECE on the implementation of the pertinent provisions of the Final Act as well as of the possibilities open to the Commission for contributing further to the implementation of the Act". As was to be expected the question of a possible high-level meeting on the environment figured rather prominently in the Executive Secretary's contribution to the Belgrade Meeting.

Part III of the Review of ECE Activities pertaining to the Final Act of the CSCE[25)], submitted to the Meeting was entitled "Possible High-level Meeting on the Environment". It consisted of a concise summary of the follow-up to the proposal made at the thirty-first session of the Commission ending with a reference to the Consultative Meeting of the Senior Advisers. Towards the end of his statement the Executive Secretary gave his own assessment of this possiblility in the following terms: "For some time now I have been urging in my annual reports *the need to elevate the authority of the Commission by considering important new initiatives and the most critical problems at a higher level of political decision-making*. The Soviet Union launched an important initiative in this respect at the thirty-first session in 1976 which then led to an unanimously agreed resolution at the last session of the Commission." A process had been started "by which at this moment the need and justification for a high-level meeting on selected problems and issues in the field... are being explored. This work is well under way and I hope to be able to report on it very positively to the next session of the Commission. Convening of high-level meetings within the framework of the ECE would be an important step forward, one which has become possible largely as a result of the circumstances created by the CSCE. *Traditionally, ECE has worked at the expert level. It is only logical that co-operation which develops at a certain level of competence tends to remain at this level. High-level conferences would open wider and deeper potentialities for co-operation."*

Earlier in his oral statement the Executive Secretary dwelt on the potentialities for expansion on the basis of "a more systematic division of labour" and the creation of a "region-wide economic infrastructure through co-operation in the development of the transport network, in basic materials and energy projects, and in the management of the environment (including the water economy), in strengthening the system of scientific and technological exchanges, in the field of commercial and economic information and development of more stable business relationships".

The Executive Secretary concluded his address by making some observations on the interaction between region-wide and subregional co-operation and the long-term political impact of the CSCE on the orientation of the Commission's activities, which are pertinent in the context of the potentialities of possible high-level meetings. The Executive Secretary observed that "economic co-operation among certain countries of the region is developing on a subregional basis — within the European Economic Communities and the Council for Mutual Economic Assistance.... These subregional groupings have been granted consultative status with ECE, which permits them to co-operate fully within the framework of ECE, together with all member Governments". Next, in a significant passage, Mr. Stanovnik argued that there need not necessarily be a conflict between these two legitimate forms of intergovernmental co-operation in the region. "To avoid any misunderstandings, unnecessary duplication of effort, or conflict which might occur because of the economic and political power of these subregional groupings, *it is particularly important that their activities be fully co-ordinated with those of the ECE in areas of more general concern to the region as a whole.* Subregional co-operation would thereby support and strengthen the broader activities of ECE in these areas."[26]

Support, though of varying degrees of emphasis, was expressed at the Belgrade Meeting for a positive decision on the holding of a high-level meeting on environment. The representative of the USSR focused on the potential importance and "path-breaking nature" of collective efforts to tackle major problems of infrastructure affecting the European economy as whole. He added the thought that *a concerted solution of those global problems on the European continent might in future serve as a pattern for their solution on a world scale.* The representative of a Nordic country with a special commitment to the abatement of air-borne pollution stated that his country "would like to see the Belgrade Meeting in its Final Document express support for a decision to be taken in the ECE to convene a conference on the environment as part of the follow-up of the Final Act". However, political disagreements developed over other matters so that after a long drawn-out meeting its "Concluding Document" had to acknowledge that "consensus was not reached on a number of proposals submitted to the meeting". The Belgrade Meeting ended on 9 March 1978, i.e. a month before the ECE was to convene for its thirty-third session, in a rather unfavourable political environment, despite a reaffirmation of détente.

NOTES AND REFERENCES

CHAPTER III

1. Helsinki Final Act, pp. 104-105. For full text of this part of the Final Act, see annex I.
2. Decision D (XXXII), E/5944, p. 100.
3. See below, reference in chapter IX, p. 140, to article on EMEP published in the *Economic Bulletin for Europe,* vol. 34, No.1 (March 1982).
4. Final Act, p. 105.
5. For further information, see also *Acid Rain in Europe and North America, op. cit.,* Part III.
6. A framework convention as a rule contains commitments of a rather general character.
7. ECE/ENV/17. Italics added.
8. Meanwhile twenty-four replies had been received from Governments in response to the Executive Secretary's letter, including one from the (then) nine countries members of the EEC. Thus, almost all ECE countries had responded.
9. In the course of the discussion the Executive Secretary, responding to the argument that certain topics were not deemed suitable for the conclusion of a legally binding convention, pointed out that documents such as the Final Act of the CSCE could have great moral and political force without being legally binding. In some cases a high-level meeting might perhaps produce a declaration rather than a convention, but such a declaration could nevertheless have a great impact on international co-operation (ECE/ENV/17/Add.1, para. 92).
10. All Government replies submitted in writing had in fact included this particular topic.
11. The Substantive Record deals with the interesting aspect of incorporating topics of a subregional nature into topics of more region-wide concern (see, e.g. ECE/ENV/17/Add.1, para. 74).
12. One clear example is the special situation of a small ECE member country—Malta. Given its geographic location and the importance of tourism for its economy, the environmental topic of prime concern to Malta is marine environment (ECE/ENV/17/Add.1, para. 174).
13. ECE/ENV/17/Add.1, para. 156.
14. *Ibid.,* paras. 153-154. Italics added.
15. *Ibid.,* para. 155. Italics added.
16. *Ibid.,* para. 168. Italics added.
17. *Ibid.,* para. 170.
18. *Ibid.,* para. 182-183. Italics added.
19. "Report by the Executive Secretary on a detailed analysis of topics which, in the light of the views of member Governments, may be appropriate for consideration at a high-level meeting within the framework of ECE on the protection of the environment."
20. See in this connection E/ECE/936, paras. 70-94.
21. E/ECE/936, para. 77. Italics added.
22. *Ibid.,* para. 82. Italics added.
23. *Ibid.,* para. 93. Italics added.
24. *Ibid.,* para. 17. Italics added.
25. This review was subsequently circulated at the thirty-third session of the ECE (E/ECE/938).
26. See CSCE/BM/PV.6.

CHAPTER IV

A QUALIFIED "GO-AHEAD"

The thirty-third session (spring 1978): new hurdles

The Commission in its resolution 1 (XXXII), part II, agreed to consider constructively at its thirty-third session *the holding as soon as practicable of a high-level meeting.*[1] While it was not unreasonable to assume and expect that the decision to hold this meeting would indeed be taken on that occasion, it proved impossible to reach agreement on taking such a step.

Reasons for delaying the final decision

Opinions differ as to reasons for this further delay. One plausible reason, adduced by some delegations, was the need for additional preparatory work. But others claimed the real and deeper reason was political. In trying to understand what happened, a distinction should be made between a decision to hold the high-level meeting and the setting of a definite date for convening it and for the enunciation of its substantive scope, as well as its organizational and administrative modalities. The need for additional preparatory work was not disputed; an accord could probably have been reached relatively easily to defer a decision on timing, had it been possible to take an unqualified decision to hold the high-level meeting.

There is little doubt that the lack of substantive agreement which characterized the first post-CSCE follow-up meeting at Belgrade (October 1977-March 1978), as well as the political circumstances surrounding it, were contributory factors.

One of the consequences of the adoption of the Helsinki Final Act and of the greater readiness of Governments to enhance the political authority of the Commission, had been the growing "politicization" of its activities. So long as the process of détente seemed to make some headway, this could be regarded as a positive development pointing to an upgrading of the ECE. However, détente has not only its ups and downs; it can remain under severe strain over a long period because of unforeseen developments, thus adversely affecting East-West conference diplomacy as practised in the ECE.

Although this kind of Conference diplomacy cannot entirely insulate itself from changes in political temperature (so much so that East-West gatherings are often regarded by many as political "barometers"), experience tends to lead to the empirical observation that once a particular East-West conference process has been initiated and firmly launched, it is not easily discontinued or reversed by political "turbulence". But it may be impeded, slowed down and weakened. This comment applies particularly to a conference process which (like the subject of the present enquiry) does not affect the sphere of East-West political controversy, but on the contrary reflects strong and urgent common concerns.

The thirty-third session of the Commission (11-22 April 1978) opened with the customary inaugural address by the Executive Secretary. The statement's centre-piece was the presentation of his two reports dealing with the preparations for a high-level meeting. The Executive Secretary strongly argued that a decision on the matter should be taken at the session. He said that "this decision is especially important for enhanced co-operation within the Commission" since it would emphasize "the urgency and attention given to environmental problems by all member countries", place before the ECE the opportunity "to become the central focal point of region-wide co-operation in this critical field", and provide *"the potential of increased authority for the Commission in areas where important activities are already under way"*.[2)]

Indeed, the way in which the Governments would deal with the question of the convening of the high-level meeting appeared to have become a kind of test-case of the readiness of ECE's member countries to intensify East-West co-operation *at policy level* in a crucial area of common concern to the region, as expressly acknowledged in the Helsinki Final Act, thereby enhancing ECE's political authority.

Need for further preparations?

Despite the highly productive preliminary preparations—as evidenced by the two reports submitted by the Executive Secretary—the need for considerable *additional* preparations was generally recognized. In his opening statement the Executive Secretary had expressed his belief that the Commission "will wish to set in motion the preparatory machinery for the meeting and to give concrete instructions for elaborating a precise and carefully elaborated agenda. Guidance and clear instructions should be given concerning the topics for consideration, the objectives to be achieved and the time-frame for achieving those objectives". Could such specific preparations be set in motion in the absence of an unequivocal decision in principle to hold the high-level meeting?

This question proved to be the main preoccupation of delegations at the thirty-third session of the Commission both in the public debates in plenary and in the private contacts and negotiations within and between the various caucuses.

The delegations of the members of the European Economic Community had come to Geneva with instructions which implied that further work was required before a decision on holding the meeting could be taken. Their position as stated on their behalf by the delegation of Denmark was summarized in the Commission report in the following terms: "[Other] delegations... recognized the potential value of high-level meetings, but emphasized that such meetings had to hold promise of important decisions, and meet all the other criteria laid down in resolution 1 (XXXII).... *the reports of the Executive Secretary* had made a valuable contribution to the consideration of a high-level meeting on the environment, but they *had also revealed some unanswered questions.* Without answers to these questions these delegations contended that *it could not be decided whether the agreed criteria had been satisfied"*.[3)]

It was not immediately clear what the questions were that had to be answered, but it seemed that in the opinion of some delegations certain further work had to be done to determine whether there were other topics, in addition to the two—transboundary air pollution and low- and non-waste technology—which fully met the criteria, But more importantly the Executive Secretary, in his report (E/ECE/936), had, with one exception, deliberately left it to the Governments to decide on the precise form of the instruments which were to embody the "important results" of the high-level meeting. In his statement made on behalf of the member States of the EEC, the representative of Denmark had stressed that "careful preparations would be necessary in order to ensure, in particular, that such meetings did not serve only as a platform for solemn declarations". This would seem to suggest that further discussion would be necessary, for instance, as to whether the commitments on the control and abatement of transboundary air pollution should assume the form of a legally binding instrument. Differing views on this important aspect had emerged in the course of the Consultative Meeting of the Senior Advisers. During the discussions at the Commission the representatives of the Nordic countries reiterated their strongly held opinion that the increasingly serious problem of transboundary air pollution called for legal regulation.[4] Moreover they considered that a decision on holding the high-level meeting should be taken at the thirty-third session of the Commission.

Other countries, like Austria and Portugal, also seemed to hold the view that the pre-conditions for taking a positive decision on the matter had been met. The report summarized the attitude of these delegations in the following terms: "... the time was now ripe for the Commission to take a decision on the holding as soon as practicable of a high-level meeting... The preparatory machinery should be set in motion by giving over-all responsibility to the Senior Advisers... for the preparatory work and for presenting concrete proposals for decision by the high-level meeting. The Executive Secretary should be requested to convene at an early date a special session of the Senior Advisers who would be requested to submit a progress report to the thirty-fourth session of the Commission. The latter would decide *on the date* for holding the high-level meeting".[5] The implications of this position were clear: the preparatory work envisaged could be spaced over an entire year, but it would go forward on the basis of a formal decision that the proposed meeting would be held. Not surprisingly, the protagonists of the original proposal, and especially its primary sponsor, the Soviet Union, likewise urged that a decision to hold the high-level meeting be taken at the thirty-third session. Topics would have to meet the criteria that had been agreed and might include, primarily, transboundary air pollution and application of low-waste and non-waste technologies, as well as the control of toxic substances and wastes, and possibly the issues of transboundary water pollution and protection of native flora and fauna, i.e. all the five subject areas contained in the Executive Secretary's consolidated list contained in his analytical report.

As regards the procedural and organizational aspects, some Eastern delegations suggested that a high-level meeting be convened before the end of 1978, and that a precise mandate be prepared at that meeting for an expert meeting (which could be a session of the Senior Advisers) which would elaborate draft documents for adoption at the subsequent resumed high-level meeting early in 1979. In other words it was envisaged that the Commission should decide to convene the meeting fairly promptly and envisage three stages in this connection, not unlike the structure of the CSCE.[6]

Despite the prevalent perception of the Eastern European Governments that the refusal by the majority of ECE members was, at least in part, if not mainly, attributable to their political assessment of the outcome of the Belgrade Meeting, representatives of Governments attending the Commission's thirty-third session refrained from engaging in mutual political recrimination. But there were indeed clear indications that the failure of the session to decide on the convening of the high-level meeting had a political side to it.

The representative of a Western non-EEC member country, in a statement made in the context of the discussion on the high-level meeting and before the EEC declaration mentioned above, observed that his Government "had been disappointed in the results of the recent Belgrade meeting. It remained firmly attached to the CSCE. It considered however, that *unless visible progress was made in other areas such as humanitarian questions it would be difficult to advance in the economic sphere*".[7] The delegation of the USSR stated that it was deeply disappointed by what it viewed as a politically motivated refusal to settle the question of convening a high-level meeting in an affirmative manner at the session.

Commenting on the statement by the representative of Denmark on behalf of the members of the EEC, the Soviet delegate said that "there had been a gentlemen's agreement that a final decision on the matter would be taken at the present session".[8] In a subsequent statement he declared that "in the light of the decision taken by the Commission the previous year, the statement by the representatives of the European Economic Community must be regarded as a retrograde step".[9]

The Commission was once again, as on so many occasions in the past, confronted with differing approaches to the solution of an important issue. It was imperative therefore to reconcile the positions. Despite the deterioration of the political climate surrounding East-West relations, it was inconceivable that the proposal of a high-level meeting could either be postponed *sine die* or dropped altogether. The preliminary preparations had revealed solid support for, and interest in, the proposal by virtually all member countries. A compromise solution was both essential and, in a sense, inevitable.

Conditional decision on focus and format of a possible high-level meeting

It was in the course of protracted, intensive and difficult private negotiations through the informal East-West contact group that such a compromise was ultimately hammered out and put together, almost *in extremis,* and subsequently adopted *"by consensus"* as part of a resolution on the work and future activities of the Commission — resolution 1(XXXIII). (For the text of part II of the resolution, see annex II.) Although compromises cannot, by definition, be fully satisfactory, at least to some of the parties involved,[10] the agreement which was reached on further work regarding the preparation of the high-level meeting represents, on closer analysis, probably the best that could have been achieved under the circumstances.

The principal elements of this understanding were, briefly, as follows:

(1) The Commission reaffirmed its will and determination to continue its work towards the holding of a high-level meeting on the protection of the environment within the framework of the ECE. It expressed confidence "that further preparatory work" by the Senior Advisers on a number of topics, more particularly on long-range transboundary air pollution (topic A); and low- and non-waste technology and re-utilization and recycling of wastes (topic B) as well as on other topics as specified, "would... permit the prompt convening of a high-level meeting within the framework of the ECE".

(2) The Commission agreed that "further and detailed work is needed to prepare important decisions, including the possible forms of appropriate agreements which would be adopted at a high-level meeting".

(3) The Commission expressed "its determination to make every effort to bring the preparatory work to a successful conclusion so that such a meeting could be held in 1979".

(4) The Commission requested the Senior Advisers—taking into account the Executive Secretary's report E/ECE/936—to prepare on topics A and B and *on any other topics* enumerated in paragraph 4 of the Executive Secretary's report "on which the Senior Advisers may agree", "recommendations and concrete proposals for important decisions to be submitted".

(5) The Commission specified, under topics A and B a number of "points" (six in each case) which had to be examined by the Senior Advisers including, *in both cases*, the "possible form of an agreement" on those points. The "points" furnished valuable guidance for the further preparatory work to be undertaken.

(6) The Commission decided to "review constructively" at its thirty-fourth session the preparatory work with a view "to taking decisions on the high-level meeting...".

(7) The Commission requested the Senior Advisers to carry out the preparatory work in special sessions, the first to be convened preferably in June 1978. The Senior Advisers were authorized to "create special groups as deemed appropriate".

The significance of the compromise is that it gave a go-ahead for a comprehensive and detailed preparatory process to be launched forthwith. It was no longer the Executive Secretary (who had acquitted himself with distinction in carrying out the initial exercise of identifying, analysing and finally consolidating a great many topics into five categories) but the Senior Advisers, that is, an ongoing *intergovernmental* subsidiary body, which was charged with the responsibility for further work, though naturally assisted by the secretariat. The Commission followed the advice given by the Executive Secretary in his second report, that the Senior Advisers would be "the most logical forum for this preparatory work".11)

The Commission decided, in effect, in favour of the third option envisaged by the Executive Secretary for the preparatory phase, i.e. "the formulation" as its end-product, "of draft documents to be considered and approved by the high-level meeting itself".12) *No guidelines* were given by the Commission, however, *about the possible form of the agreements* on the topics suggested for the agenda. It will be remembered that in his second report the Excutive Secretary had observed that if the objective of the high-level meeting would be the adoption of such formal instruments as a convention, declaration or agreement on a set of principles, "the preparatory work might take up to a year and even more if a convention were to be negotiated at the expert level".13) While a number of countries had already pronounced themselves specifically in favour of a convention on long-range transboundary air pollution, and others had not yet made up their mind on this question, it was evident that the preparatory negotiations would have to proceed under considerable time pressure to produce fully elaborated and generally acceptable texts in good time for adoption at a high-level meeting of brief duration, for which the Commission, it seemed, had opted.14)

It was clear from the terms of the compromise resolution that the preparatory phase would in fact englobe the bulk of the "pre-implementation" part of the conference process and would have to be a race against time. Although the Commission had virtually singled out two subject areas (long-range transboundary air pollution, and low- and non-waste technology and re-utilization and recycling of wastes, i.e. topics A and B), part of the compromise consisted precisely in not excluding from possible scrutiny the three remaining subject areas analysed by the Executive Secretary in the last part of his report nor indeed, strictly speaking, any of the 22 suggestions that had been made by the Governments in writing or orally. But it was clear that the over-all task facing the Senior Advisers would require much effort and application. First of all, it would be necessary to examine in depth the various aspects of topics A and B, as spelled out in the resolution, with a view to framing "recommendations and concrete proposals for important decisions", including "the possible form of an agreement on the above points". Next, a determination would have to be made whether or not any other topics should be recommended for inclusion in the agenda. This, once again, would require considerable detailed scrutiny of "such subjects" (enumerated in paragraph 4 of the Executive Secretary's analytical report) from the standpoint of their suitability — altogether a rather formidable assignment, given the relatively brief time-span.

The absence of a decision to call the high-level meeting undoubtedly left an element of doubt and uncertainty; the resolution[15] made it quite clear that the decision depended on a successful conclusion of the preparatory process by the time the thirty-fourth session was scheduled to meet in the spring of 1979. Though it was hard to imagine that the Commission would not adopt a positive decision on the matter at that session, all sorts of unforeseen difficulties and delays could arise and thus put the entire effort in jeopardy. The net effect of the thirty-third session of the Commission was thus to give a *qualified go-ahead* to what turned out to be the crucial phase of a new type of East-West conference diplomacy.

NOTES AND REFERENCES

CHAPTER IV

1. Italics added.
2. For full text see press release ECE/GEN/8 dated 11 April 1978. Italics added.
3. E/1978/47, para. 56. Italics added. See also E/ECE(XXXIII)/SR.3, para. 65.
4. The Commission's report summarized the position of the Nordic countries on this point thus: "In the view of several delegations the problem of transboundary air pollution should be a central topic at a high-level meeting on the environment. Only the adoption of a framework convention would, in their opinion, satisfy the generally recognized need for international co-operative action in this field." (E/1978/47, para. 58).
5. E/1978/47, para. 59. Italics added.
6. In his report (E/ECE/937) the Executive Secretary envisaged something similar along these lines as one of the possible organizational options.
7. Statement by the delegation of Canada, E/ECE(XXXIII)/SR.3, para. 59. Italics added.
8. E/ECE(XXXIII)/SR.4, para. 40.
9. E/ECE(XXXIII)/SR.6, para. 3.
10. After the adoption of the resolution by explicit consensus the delegate of Hungary, speaking on behalf of Bulgaria, the Byelorussian SSR, Czechoslovakia, the German Democratic Republic, Hungary, Poland, the Ukrainian SSR and the USSR, said, *inter alia*, "that from the beginning it was well known to everyone that the main task of the thirty-third session was to pave the way for the realization of the Soviet proposal to organize three high-level meetings on the environment, energy and transport... The socialist countries... were ready for serious negotiations and for decisions to be taken... they had submitted a draft on the issue... to stimulate further progress in the preparation... of three conferences and had wanted to take a decision on the high-level meeting on the environment. ...the western proposal was aimed at the postponement of taking a decision. ... the expectations of the socialist countries for substantial progress were not fully met by the resolution...".
    The delegate of the Soviet Union said that "the resolution adopted... was a compromise. ... it contained a number of useful points... but had at the same time, a number of inherent shortcomings. ...much concerning the practical implementation would depend on the presence or absence of political will of the ECE member countries. ...concerning the importance of the preparatory work for the three all-European conferences one should not consider this part of the decision as being final. ...under the conditions imposed on it... the Soviet delegation reserved its position on any subject for discussion at the all-European conference on environment". The delegate of Norway speaking on behalf of the Western countries said "that it was his understanding that the resolution just adopted appropriately reflected the common understanding between those who had participated in this important session,

and this resolution was now a basis of all work, notwithstanding the ...statements which had just been heard". (For the full text of these statements, see E/1978/47, paras. 83-89). According to UN "procedural jurisprudence", adoption of a resolution by consensus is strictly speaking inconsistent with subsequent explanatory statements.

11. E/ECE/937, para. 7.
12. *Ibid.*, para. 6.
13. *Ibid.*, para. 17.
14. *Ibid.*, para. 18.
15. In addition to the dispositions agreed concerning further activities relating to a high-level meeting on environment, resolution 1 (XXXIII) dealt with the original Soviet proposal. It drew to the attention of Governments the discussion at its thirty-third session on the Soviet Government's proposal for the holding of all-European congresses in the field of transport and energy and repeated the request to the Executive Secretary "to circulate such views in regard to the proposal as member Governments may wish to communicate to him". More importantly, the Commission, in the resolution, took up the question of general energy problems in the ECE region which it had already considered at its previous session (see decision H (XXXII)).

    Following a request made by the Commission on that occasion, the Executive Secretary submitted a study (E/ECE/946) dealing, for the first time in ECE's history, with general energy problems in the ECE region, and more particularly with new issues affecting the energy economy in that region in the medium-and long-term. This request was, of course, not unconnected with the provisions of the Final Act in this domain and with the Soviet proposal to hold an intergovernmental conference on the subject. The delegations which took part in the discussion on this question concurred in considering energy as one of the most critical factors in the economic and social development of the region (see E/1978/47, paras. 325-326). Earlier, several delegations had referred favourably to the idea of establishing a Principal Subsidiary Body of Senior Advisers to ECE Governments on General Energy Problems. Resolution 1 (XXXIII) not only recorded that it had considered the Executive Secretary's study and had noted "with interest the idea of creating a new Principal Body on Energy", but endorsed ongoing activities on general energy problems in the ECE region, and also acknowledged the need for providing, through an extensive exchange of information and views on energy resources and governmental objectives and policies, a basis for closer international co-operation on energy matters. It further expressed its wish "to consider constructively" at its thirty-fourth session the establishment of a new Principal Subsidiary Body on Energy and its possible mandate (see preamble of resolution 1 (XXXIII), part I, and part II, paras. 11 and 12).

    While this development seemed to be a first step towards a governmental conference on energy, the controversial nature of the subject in the East-West context, as perceived by some Governments, coupled with the deterioration in political relations, has, so far, inhibited progress in this domain.

CHAPTER V

ULTIMATE PREPARATIONS

The magnitude of the task

An adequate analysis of this last and decisive phase in the preparations for the high-level meeting is not easy, because of the considerable degree of intensity and complexity of the process. Existing ECE practices had to be adapted to deal with "technical policies", varying political desiderata and interests had to be reconciled, and negotiations put in motion to discharge the mandate given to the Senior Advisers. An attempt is made to disentangle the principal features of this phase, for, in a sense, its detailed scrutiny, even if at times laborious and downright tedious, could prove to be one of the most instructive empirical parts of the present inquiry.

It was clear from the terms of Commission resolution 1 (XXXIII) and, more particularly from the fifth paragraph of its second part, that the Commission expected the Senior Advisers to deliver to the ECE Governments, in time for the Commission's thirty-fourth session in twelve months' time "recommendations and concrete proposals" which would embody draft texts of decisions to be adopted by a high-level meeting and which, above all, would make it possible for the Commission, at long last, to decide to convene the Meeting itself in the course of 1979.

Though the mandate given to the Senior Advisers was precise, it was clear from the outset that it would require considerable time and effort. Thanks to the pathbreaking analytical work carried out by the Executive Secretary both substantive elements and policy implications of a great number of important issue-areas had been identified and clarified. The Commission had virtually decided that in case a high-level meeting would be held the two subjects—i.e. (A) Long-range transboundary air pollution and (B) Low- and non-waste technology and re-utilization and recycling of wastes—would figure prominently in the agenda. With respect to both topics, the Commission, basing itself on the Executive Secretary's analytical report, had carefully enumerated those aspects or "points" on which the Senior Advisers had to focus their attention, including the "possible form of an agreement on the above points". While the listing by the Commission of the component elements of the two topics proved of key importance for the ultimate preparations—since they constituted a clearly defined framework or check-list for the further study of these topics by the Senior Advisers—it was to be expected that analysis in depth, undertaken by specialists on the basis of additional information supplied by the Governments, might reveal differences in approach and emphasis. But above all, difficulties of a more fundamental policy nature could also be anticipated when the form of the agreement or agreements, especially as regards topic A, came to be considered.

The fact that "any other topics" contained in paragraph 4 of the Executive Secretary's analytical report would have to be examined was bound to add to the total work-load and complicate matters in reaching agreement on the topics to be included in the agenda. Varying opinions had been expressed informally on the insistence by some delegations as to the need to study all topics included in the analytical report, such as the strongly held view of some delegations that the category of "other topics included subjects of major national and international concern from the standpoint of the protection of the environment. It was also argued that the "other topics" could be used as "chips" in the negotiations.

Organizational arrangements and time-table

The basic organizational pattern of the preparatory work of the ultimate preparations was outlined in paragraph 7 of part II of the Commission resolution 1 (XXXIII) in which the Senior Advisers were requested to meet in *special sessions* to carry out the responsibilities set out in the resolution. These sessions functioned in effect as the preparatory committee of the proposed high-level meeting. The Senior Advisers were given a fairly free hand and the necessary flexibility as to their *modus operandi*. Whenever particular topics called for separate examination at substantive and policy levels, the Senior Advisers were expressly authorized by the Commission to "create special groups as deemed appropriate".

The Senior Advisers, with the assistance of the secretariat, coped well with their novel assignment. Indeed, the advantages of using an existing framework became increasingly apparent as the work unfolded.

A well prepared regional conference, even if held in the politically sensitive East-West setting, is, of course, easier and much more manageable to conduct than a global conference with a participation of upwards of 150 States, the majority of which are developing countries, usually called upon to deal with a crowded agenda reflecting such a wide spectrum of interests that renders the negotiators' task of reaching meaningful consensus-based decisions extraordinarily difficult. A UNITAR publication dealing with the institutional arrangements at the third session of the United Nations Conference on the Law of the Sea (1979, Caracas) concluded that "UNCLOS III has amply demonstrated that in crowded negotiations with crowded agendas, manageability becomes the key to progress. This manageability is a function of effective institutional procedures".1)

Even less ambitious inter-State conferences organized under UN auspices have also frequently been plagued by problems of manageability because of an over-abundant agenda. Regional inter-State conferences tend to be more manageable, especially if, in addition to using already existing institutional procedures and facilities, they are sectoral in nature and based on a highly selective agenda.

Nevertheless the task of preparation remains hard. As stipulated in Commission resolution 1 (XXXIII) part II, the first special session of the Senior Advisers took place from 7 to 9 June 1978. Thus the ultimate preparations had to be compressed into a relatively short period given the in-built slowness of multilateral diplomacy, the heavy burden of sifting through a large number of topics, some of them highly technical, and the difficulty of elaborating agreed drafts of "important decisions" that had to be substantively sound, scientifically credible, specific, operationally-oriented, policy-relevant, and, of course, politically acceptable to all.

When the Senior Advisers considered their plan of work during their first special session, it was envisaged that the elaboration of "recommendations and concrete proposals for important decisions" would be carried out by means of the preparatory mechanism and submitted to the regular (seventh) session of Special Advisers scheduled to be held from 19 to 23 February 1979. (ECE/ENV/21, paragraph 17). Originally, two or at the most three special sessions of the Special Advisers were foreseen, but in the event further time was needed for preparation, both in capitals and at Geneva. It was therefore agreed at a later stage that the Senior Advisers should meet in a fourth special session from 21 to 23 March 1979, i.e. virtually on the eve of the opening of ECE's thirty-fourth session.

In order to provide, for easy reference, a succinct chronological account of the various stages through which the preparatory phase evolved, the text of the Senior Advisers' report regarding the implementation of Commission resolution 1 (XXXIII) (submitted to the thirty-fourth session of the Commission as document ECE/ENV/29) is reproduced as annex III to this study.

Some idea of the scale of the operations in terms of conference logistics can be conveyed by the following data. The Senior Advisers held altogether four special sessions, each of three days' duration. Two Special Groups were constituted, the first - A - dealing with long-range transboundary air pollution, and the second - B - with low- and non-waste technology. Group A held five meetings of altogether 16 days' duration as well as one meeting of its officers of three days' duration. Group B held five meetings lasting 11 days plus two meetings of officers which took three days. An Expert Group was set up to examine other "environmental topics". It met once for four days. Thus the sum total of official and formal meetings serviced by the Conference Services Division of the United Nations Office at Geneva of the special sessions of the SAEP and the *ad hoc* groups, amounted to 51 working days, each of which consist usually of two daily meetings of some three hours' duration, i.e. totaling approximately upwards of 100 meetings units. This volume of meetings accounted for about 10 per cent of the entire meetings entitlement of the ECE for that year.

The above rough calculation does not include the time devoted by the Senior Advisers at their regular seventh session to the consideration of the preparatory work for the high-level meeting. Moreover, official meetings statistics do not convey a full picture of the total effort, since they do not cover the countless "man hours" spent by the secretariat at different levels of responsibility in providing the substantive backstopping, in drafting reports, giving advice etc.. The work done by experts and other officials in the national capitals in order to furnish information, formulate views and define positions must have been appreciable as, indeed, was the number of informal meetings held. The growing exigencies of intra-group consultations, among the members belonging to such organizations as EEC, OECD, CMEA and the Nordic Council, called for additional and time-consuming efforts, on the part of delegations, both between and during the official meetings. The additional documentation load was also heavy.

As the preparations proceeded, especially those related to the content and form of the "recommendations and concrete proposals, for important decisions" regarding long-range transboundary air pollution, informal consultations and negotiations frequently held concurrently with the official meetings began to claim increasing attention. Apparently no systematic records exist of the time spent on these endeavours, nor indeed of their content.

The preliminary phase and its "actors"

As conference diplomacy in its various manifestations develops, the coordination of formal and informal discussions, and, more particularly of formal and informal negotiations on the drafts of possible decisions on specific subjects, becomes a key indicator of effectiveness.

In the last analysis, diplomacy, including conference diplomacy, is a framework for interaction between individuals. Despite the constraints imposed upon such persons by their professional function to represent the national interests of their respective Governments, the personal factor matters greatly. Human relations are never perfect; but good personal contacts have a positive impact on the process of communications, which is of particular importance for sensible decision-taking in an East-West setting. Therefore yet another advantage of employing existing and long-established institutions for the preparatory phase of an East-West conference is that because many of the individual actors had worked together on a number of previous occasions, they had thus come to know each other as colleagues and as human beings. Hence, the problem of establishing a satisfactory and reliable system of access to, and communications between, delegates and groups representing countries having differing and partially antagonistic internal systems did not present undue dificuties[2]. They had acquired a common language even if its vocabulary tended to be predominantly technical. But since they were used to each other and since in their capacity of Advisers to Governments, they naturally were fully aware of the policy-implications of issues hitherto approached and tackled from a predominantly technical standpoint, many of them were used to taking part in negotiations, both formal and informal, aimed at formulating objectives, defining concepts and articulating methods and forms of international co-operation. On occasion, the experts tended to get overly involved in scrutinizing and weighing the technical *minutiae* of sub-topics having a patently secondary significance; yet withal the mechanism of the network of the special sessions of the Senior Advisers appeared to function effectively. By conscientiously giving their full attention to all matters which had been judged important enough by individual Governments to be raised, even if, from a more general perspective, they seemed relatively minor, the Senior Advisers were in fact following one of the iron rules of multilateral conference diplomacy, namely that each and every individual suggestion be given a fair hearing.

A few words should be added about the role of a small but distinct and important category of actors in the preparatory conference process, namely the officers of the special sessions and those of the special groups. As noted earlier, the officers in the ECE, both in plenary and in the subsidiary bodies, usually consist of a Chairman, and a Vice-Chairman and two Rapporteurs, and, according to established practice, two of the officers come from Eastern countries, and two from Western countries, with the Chairmanship and Vice-Chairmanship rotating between the two groups.

At their first special session the Senior Advisers made a series of practical arrangements for carrying out their mandate. In so doing, they agreed that each of the two special groups (to consider topics A and B respectively) should be headed by four officers with the usual functional and geopolitical composition (i.e. Chairman, a Vice-Chairman and two Rapporteurs). The Senior Advisers also agreed on the countries which were requested to designate officers for the two groups. They then decided which Governments should designate the officers to fill the posts of the expert meeting, known as the "Expert Meeting on Environmental Topics". There was thus assembled an over-all team of individuals of standing, experience and authority who not only closely worked with the secretariat on the detailed planning of the work, but considered themselves personally involved in the preparatory process, and committed to its successful conclusion. In addition to their "official" meetings (which are included in the chronological list of the preparatory meetings contained in document ECE/ENV/29), the officers of the Special Groups met and consulted with each other and, no doubt, also with the officers of the special sessions of the Senior Advisers, on the progress of the work. Unquestionably this group played an important part in ensuring the positive outcome of the preparations for the high-level meeting. Their contribution underlines the role which individuals can play in East-West conference diplomacy, particularly if they act as a group within the framework of institutions, procedures and traditions that have proven their worth, and if they already know each other and the group which they constitute is balanced and representative.

International organizations, more particularly those belonging to the UN system which are concerned with different aspects of the environment, represent yet another distinct category of corporate actors which influence the preparatory process of a conference, including its exploratory stages, not only because of their considerable expertise, but also because in this case their active participation ensured that the last of the criteria enunciated by the Commission in its resolution 1 (XXXII), part II, was duly met, i.e. that a high-level meeting should "not lead to unnecessary duplication of the work of other international organizations". [3] The important input of certain of these bodies whose representatives followed the work of, and, as a rule, participated in the preparatory meetings, proved essential: as will be mentioned later, the Convention on Long-range Transboundary Air Pollution adopted by the High-level Meeting, in its article 9, deals with the implementation and further development of the "Co-operative programme for monitoring and evaluation of the long-range transmission of air pollutants in Europe" (EMEP), an ECE project carried out in co-operation with the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP). Further agencies of the UN became involved in other essential provisions of the Convention.

Last but not least there was, of course, yet another key actor, i.e. the ECE secretariat, whose role during the interim preparations has deliberately been described in some detail. After the Executive Secretary had completed the crucially important initial analysis of suitable topics, the responsibility for the ultimate preparations rested squarely on the shoulders of the Government representatives. But the Executive Secretary, in consultation with the officers of the Senior Advisers, remained, of course, in charge of all the organizational arrangements and the steering of the entire process, as was indeed his statutory duty, and he remained at all times at the disposal of the ECE Governments.

In view of the exceptional importance of a successful outcome and in order to enhance the effectiveness of the secretariat's contribution, the Executive Secretary, in co-operation with members of his Office, personally assumed the task of over-all co-ordination, while the Environment and Human Settlements Division and its Director ensured the substantive and administrative support for the series of 18 official meetings listed and, no doubt, for many additional unlisted gatherings. They collected and sifted information received from Governments, prepared informal papers, and carried out the innumerable routine tasks associated with the exercise. Another task of the ECE secretariat, crucial during the final preparatory phase and characterized by its unprecedented intensity, especially during the period from September to mid-December 1978 when the various preparatory meetings of the Senior Advisers followed each other almost without respite, was to work closely with the conference servicing staff of the United Nations Office at Geneva to ensure that meeting, interpretation, translation and reproduction facilities were available as required. (The conference servicing staff, though usually taken for granted and working largely unseen, is, of course, essential to the smooth functioning of Conference diplomacy. It should therefore be accorded its due importance in the process and its role fully appreciated.)

As a result of redeployment of ECE staff and of adjustments in priorities combined with the contribution rendered by the conference services, it proved possible not only (as the Executive Secretary announced at the opening of the first special session of the Senior Advisers), to make "provision for priority treatment of any requests by the Senior Advisers which would facilitate their task", but to manage the preparatory phase and indeed the high-level meeting itself without additional cost to the ECE and indeed the United Nations as a whole. This remarkable achievement, already alluded to, would have been impossible without the close co-operation of all the actors involved, i.e. including the ECE Governments themselves, and the countless additional hours worked by all concerned.

As regards the personal role of the Executive Secretary, having performed the initial analytical task, he was not called upon by the Commission to make any proposals in connection with the ultimate phase of the preparations, but he was expected to continue his active involvement in the process.

It should be borne in mind that the Executive Secretary or his designated representative may, under rule 19 of ECE's rules of procedure, "at any meeting make either oral or written statements concerning any question under consideration". The secretariat uses this important prerogative but sparingly, usually for the purpose of delivering opening statements (if such appear appropriate), of introducing certain agenda items and explaining their background, of clarifying particular problems or of informing delegations of any pertinent developments and, if judged appropriate, expressing its own views. The rationale of such statements which have become traditional in the ECE is to facilitate the business of the meeting, to promote agreement and on occasion even to play a kind of mediating role. The reports of the five sessions of the Senior Advisers (four special and one regular) mention altogether four statements or interventions by the Executive Secretary. In the first, made on the occasion of opening the first special session of the SAEP, the Executive Secretary stressed that Commission resolution 1 (XXXIII) provided "solid ground" for the work to be accomplished by the Governments. He continued by saying that in view of the delicately balanced formulation of the resolution, "*it had been thought inappropriate for the secretariat to make any particular annotations to the agenda of the special session*" 4). The message was clear: The secretariat having done the preparatory spadework, it was now for the Senior Advisers to make their own proposals not only on the two topics set out in resolution 1 (XXXIII), part II, but also on any of the other topics mentioned in paragraph 4 of the Executive Secretary's analytical report. Under the circumstances the Executive Secretary could not be expected to express any further views. In his opening statement made at the second special session in mid-October 1978, i.e. after considerable work had been done in the meetings of the Special Groups, the Executive Secretary said that the efforts of the Senior Advisers "were now yielding promising results". The statement was meant to encourage the Senior Advisers to persevere in their task which, in the Executive Secretary's opinion, was "*to negotiate a framework for co-operation for concrete and operational agreements to be reached in the years ahead*" 5).

A further statement made by the Executive Secretary at that session was aimed at assisting the discussion and expediting the work. In his view, the Special Groups set up by the Senior Advisers were intended to facilitate the work; but it behoved solely the Senior Advisers to provide the essential political guidance and ensure that the tasks set out in paragaph 5 of the Commission resolution be completed in time before the thirty-fourth session of the Commission in 1979. He was cautious about taking any specific position regarding the negotiations which by that time had begun to develop, especially with respect to the control of long-range transboundary air pollution, beyond stating that some "framework" for the development of common strategies seemed essential in the field of environmental protection, where "it was still possible to avoid creating the maze of overlapping national laws, regulations and procedures" that was typical of some other areas.6)

When the Senior Advisers, at their seventh (regular) session at the end of February 1979, i.e. one month before the thirty-fourth session, reviewed the preparatory work that had been accomplished, the Executive Secretary expressed the belief "that the Senior Advisers had taken a crucial step in the history of ECE through co-operation and compromise". He considered that there "now appeared to be no serious obstacles to the convening of a high-level meeting". But he added that a "more immediate question was the form of the anticipated agreement" on long-range transboundary air pollution. The Executive Secretary said that he shared the view that "form depends on content; now that it was possible to see the content more clearly, the Senior Advisers should consider what type of agreement was appropriate".7)

Of course, these interventions do not tell the whole story of the key role played by the Executive Secretary throughout the stage of final preparations. The availability, at all times, of an "even-handed" honest broker, who did not, however, hesitate to express his opinion whenever he judged it necessary, aided by an experienced and competent staff, was generally acknowledged as an essential and indispensable element of the preparatory phase, as indeed of the high-level conference process in its entirety.

An attempt is now made to analyse the main elements, features and directions of the preparatory phase as it proceeded. The purpose of this examination is to identify the various methods and techniques that were used, to establish their sequential interactions, to ascertain which of the procedures were peculiar to the particular conference process under consideration and which could be used with advantage in other comparable or analogous situations. Substantive aspects will be introduced only to the extent judged necessary for an appreciation of the nature of the preparations. Special attention will be paid to the role and character of those ingredients of the preparatory process which can be regarded as representing veritable negotiations in the course of the meetings. Special attention will, of course, be drawn to any features peculiar to the East-West setting in which the preparations proceeded.

In the light of the delicately balanced Commission resolution 1 (XXXIII), part II, it became increasingly clear that, although or perhaps because no definite decision to convene the high-level meeting had been made, the success of the preparatory phase was vital for the fruition of the entire enterprise and also that the ultimate preparations were becoming an integral and decisive part of, and increasingly merging with, the (as yet only anticipated) high-level meeting itself.

The "plan of work"

The main item of the agenda for the Senior Advisers' first special session was naturally the drawing-up of a plan of work. They agreed first on the convening of a second special session in mid-October to review progress on the two selected topics, i.e. Long-range transboundary air pollution (LRTAP - topic A) and Low- and non-waste technology and re-utilization and recycling of wastes (LNWTRRW - topic B). It was further agreed that at that second special session a decision would be made on convening a further special session in mid-December.[8)]

Governments were invited to submit "any information of proposals which would facilitate or speed up the work of these groups".[9)] Several delegations "insisted that, to the extent possible, the special groups should make use of available expertise in bodies already existing under the Senior Advisers".[10)]

The request which the Commission had addressed to the Senior Advisers to prepare recommendations and concrete proposals for important decisions "on any other topics enumerated in paragraph 4 of the Executive Secretary's report", meant that they had to examine such topics under the three subject areas: Transboundary water pollution (C); Control of toxic substances and toxic wastes (D); and Protection of native flora and fauna and their habitats (E).

The dispositions taken by the Senior Advisers with regard to these remaining topics which form a distinct part of the work plan, as described in the report on the first special session, consisted "in the establishment of an Expert Meeting, to be convened from 18 to 20 September 1978 to deal with topics (C) and (E) of the Executive Secretary's five subject areas.

Thus it was clear from the outset that, not altogether surprisingly, the main efforts were to be concentrated on, and priority be given to, the two selected topics A and B. While the two special groups dealing with them functioned under the guidance of, and were expected to report on their work to, the special sessions of the Senior Advisers, the results of the Expert Meeting on Environmental Topics were to be presented to the Senior Advisers at their seventh regular session at the end of February 1979. For some reason, no reference was made to the way in which the control of toxic substances and toxic wastes (topic D) was to be dealt with, presumably because it was tacitly understood that any residual topic could be raised at the Expert Meeting. As may be seen from the pertinent documents, including the final "Report of the Senior Advisers to ECE Governments on Environmental Problems regarding the Implementation of Commission resolution 1 (XXXIII)" (ECE/ENV/29), this subject area was discussed at the Expert Group and the discussion continued at the seventh session of the Senior Advisers.[11)]

Before proceeding with the analysis of the course of the Senior Advisers' preparatory work and of the manner in which they chose to interpret their mandate, a distinction should be made between the different assignments which the Commission had entrusted to them.

Of the first two topics—A and B in Commission resolution 1 (XXXII), part II—already included in the agenda of a possible high-level meeting, it was clear from the stage of the preliminary preparation that topic A—Long-range transboundary air pollution—was considered the more urgent and important subject. In order to deal with it as effectively and as promptly as possible, it was therefore necessary to agree on the most critical aspects common to all countries that required priority attention and on the form which an agreement on action should assume. The proposal of a legally binding document was already on the table, but the idea of a convention, though shared by many, had not yet gained general support. Agreeing on a text of what might ultimately become a mandatory instrument, is a much more laborious task than the drafting of a resolution.

Against this background, it would seem justified to focus primary attention on the way in which the first of the two interrelated but distinct topics for a possible high-level meeting was handled. Despite the considerable progress of initial prospection, problem-identification, clarification of particular issues, and collection of background information, it would be very wrong indeed to minimize the problems that still lay ahead. It cannot be sufficiently emphasized that despite all its expertise and experience acquired over three decades, the Commission was embarking upon an unprecedented venture, fully conscious that the degree of its success would affect the course and quality of East-West co-operation in the economic and related fields, as set out in the Helsinki Final Act and that it would also have a bearing on the standing of the Commission as the premier multilateral instrument for such co-operation. At the level of generality it had been relatively easy to agree that environmental protection was "important", as postulated in the agreed criteria, and that therefore it deserved to be dealt with at a "high-level". But perceptions of States were bound to differ as to the extent of what this "importance" constituted not only in terms of the substantive scope, but more particularly of the institutional and operational modalities of co-operative action. In any multilateral inter-State conference, depending on the configuration of national interests, but also on more broadly conceived "philosophical" and political postures, the participants can usually (even if not very "scientifically") be divided into "minimalists" and "maximalists" as well as into those who choose to adopt an intermediate position. In the present case, these distinctions need not necessarily be caused, though they are frequently influenced, by the specific nature of the East-West relationship. Despite the region-wide, and the increasingly global dimension and impact of ecological deterioration and some of its most dangerous manifestations, i.e. the growing pollution of air and water, the intensities of the impact necessarily differ because of economic, geographic, meteorological and demographic reasons. Attitudes towards the extent of really effective international co-operation that can be accepted as "tolerable" and reconcilable with national sovereignty also differ; so do views on the need for legally binding instruments, particularly of a convention-type which seek to regulate national and international behaviour concerning a phenomenon of major and growing concern. As already known, the Nordic Group which could at that time convincingly claim to be especially badly affected by acid precipitation of transboundary provenance, consistently argued in favour of binding commitments in the hope that these would lead to a more effective control and relatively prompt reduction of air-borne pollutants. The Eastern countries tended to support this approach, partly because some of them had not given sufficient attention to the protection of the environment, especially against air pollution, but also for obvious political reasons. They wanted to see the proposed inter-State conference succeed, i.e. result in really "important" decisions which would demonstrate the feasibility of effective East-West co-operation at a "qualitatively" higher level. For the USSR the success of the first high-level gathering was of course decisive not only as a matter of prestige but because of the "demonstration-effect" of Helsinki's process of détente which a positive outcome would have. Furthermore, the USSR has tended to favour, in all cases where this was judged suitable, the legal as opposed to the non-mandatory regulation of East-West co-operative interaction, because it regards public international law as a universally accepted system, irrespective of the difference between the capitalist and socialist régimes. (But with the wisdom of hindsight, had Governments known then what they now know about the effects of "acid rain", the proposal for a much more exacting convention to reduce air pollution might well have been accepted straightway.) Topic B — low- and non-waste techology etc. — appeared at first sight much easier to handle since there was already some evidence of a meeting of minds that an agreement would assume the form of a statement of intent. Concerning the other environmental topics the task consisted in an in-depth expert scrutiny and a subsequent choice as to which, if any, further topics should be added to the agenda.

Preparatory work on long-range transboundary air pollution (topic A)

As can be seen from the report by the Senior Advisers (ECE/ENV/29), five meetings of the Special Group on Topic A were required to reach a point at which the Senior Advisers considered their mandate regarding this subject as having been completed to the extent possible. When it met for its first meeting (3-4 July 1978), the Group's first task was to decide how to clarify the six points enumerated in operative paragraph 5 of Commission resolution 1 (XXXIII), part II concerning the content and the form of an important agreement on the subject. The Group decided to ask the Governments and also the international organizations for elaboration of proposals concerning areas of possible international co-operation, which underlines the important role played by this special category of actors as emphasized earlier.[12)]

A special arrangement was made regarding point 5 of the resolution 1 (XXXIII), part II, on the implementation and future development of the Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP); the Bureau of the Programme's Steering Body was invited to make an input to the preparatory work on this point.

Two working papers were submitted to the Special Group on behalf of the Nordic Group, (i.e. Denmark, Finland, Iceland, Norway and Sweden) in advance of its first meeting, consisting of (1) a "Draft Convention for the ECE Region on Reduction of Emissions causing Transboundary Air Pollution", and (2) a "Memorandum on major elements to be considered for inclusion in an annex on emission of sulphur compounds."[13)]

The tabling of a "first draft" of a negotiating paper at an early stage in the proceedings is apt to speed up the process and places its authors in a tactically advantageous position. A well prepared first draft provides both a point of departure and a coherent frame of reference around which a structured and purposeful discussion and negotiation can be organized.

In the absence of other proposals, the Special Group agreed to invite Governments to submit prior to the Group's second meeting, comments or alternative proposals related to what became known as the "Nordic Proposal", as well as any information on the rather sensitive point bearing on procedures aimed at avoiding disputes concerning damage caused to the environment by atmospheric pollution and on the possible form of an agreement on the topic as a whole.

In this context a difference in approach developed. Some delegations voiced the opinion that, logically, *agreement on the substance of the subject matter to be covered by an instrument should precede an examination of its form. Others felt that both aspects could be dealt with in parallel fashion.*

In actual fact, however, the examination of the substance and of the form of a possible agreement was conducted neither consecutively, nor, strictly speaking, in parallel fashion, but increasingly in conjunction. The supply of information by the Governments and the international organizations in response to the Special Group's request (mentioned earlier) was, of course, essential, but in order to be of practical value it had to be combined with views and proposals of Governments on how the problems on which information had been supplied could be dealt with through international co-operation. Thus the content of a future "important" international agreement on an "important" subject would seem to consist in the definition and presentation of the main substantive elements of the problem, and in their transposition to the plane of practical international co-operation. Examining this transposition invariably and necessarily leads to a consideration (particularly if the aim is to achieve something effective and meaningful) of the practical procedures, modes and other aspects of such co-operation.

Thus, any multilateral agreement being prepared and "pre-negotiated" for, and ultimately resulting from, a particular conference process as an end-product of conference diplomacy, tends to assume the form of a framework within which substance and corresponding methods, modalities and forms of co-operation are brought into relationship with each other. The final form which the agreement assumes depends on the "importance" of the substance, the extent of the operational element of the co-operative measures, the mechanism for implementation and the degree to which Governments are politically disposed to enter into firm commitments. The latter aspect is, of course, of particular significance in the East-West context. In the case examined, the question of the form had to be left over for final decision to the thirty-fourth session of the Commission, although the Nordic draft (embodying a convention with an annex) was in fact used as a starting point in the discussion, and subsequently as a basis for the actual drafting of the composite texts as they successively emerged from the negotiations. The form of the agreement remained in suspense until the final stages of ECE's thirty-fourth session.

The response to the Special Group's request for information, together with a list of items on which information was particularly sought (as can be seen from a letter addressed by the Executive Secretary to the Governments on 17 July 1978)14) was considerable; despite the pressure of time 22 Governments and three international organizations sent replies. To facilitate the sifting of this material the officers of the Special Group met (from 7 to 8 September) to finalize the outline of part I of the "synthesis" report on technical aspects for submission to the second meeting of the Special Group, and requested the secretariat to prepare (as part II of that document), a summary of the specific proposals for international co-operation contained in the replies from the Governments.15) The purpose of this somewhat laborious exercise was to establish a solid data base, and thereby to facilitate the identification of the main components and problems of long-range transboundary air pollution, to evaluate and to define those elements which required concertation at the international level, to clarify possible approaches and then to prepare appropriate texts for inclusion in an agreement in as precise a language as possible.

When the Senior Advisers met for their second special session in mid-October 1978 to review the activities of the Special Groups, the Norwegian Minister of the Environment (whose attendance bore witness to the exceptional importance accorded by her Government to the issue) recalled that it was a Norwegian proposal that had led to the inclusion of the provision for an international system of monitoring transboundary air pollution in the Helsinki

Final Act. EMEP had been established in 1977 as a specific follow-up to this provision, but the problem itself had remained acute. It was becoming increasingly intolerable for Norway "indefinitely to accept the transmission of large quantities of air pollutants into the country", causing "significant damage to health and the economy". She made an eloquent plea for the adoption of mandatory measures. The time had come for Governments *"to supplement measures at the national level with a binding commitment to international action"*.16) Some delegations continued to argue that more information on emissions and a better understanding between pollution and its effects were necessary before the drafting of proposals could be considered.17) But many delegations seemed ready to start working on available texts, such as the Nordic draft and a newly tabled draft, submitted by the socialist countries, of an "Agreement on the creation of an all-European monitoring system on the state of the environment", which the sponsors considered to be separate from the Nordic text.18)

Towards the end of the session "the delegation of France expressed concern at the outcome of the second special session, particularly with regard to long-range transboundary air pollution. In its view, it was premature to envisage a convention on the subject...".19) Obviously the issue of the form of an eventual agreement was bound to create difficulties and require flexibility on the part of all concerned. The Chairman of the Senior Advisers observed that "some differences of opinion existed among ECE member governments about the urgency of solving specific environmental problems... one of the main tasks of the special groups was to attempt to reconcile divergent views...".20) It was in this context that the Executive Secretary, in a statement already referred to, suggested that whatever the form of the agreement or agreements proposed, "some framework of common strategies seemed essential", the political commitment for which "would ultimately have to be provided through a proposed high-level meeting".21)

At the opening of the third meeting of the Special Group, which met for two days at the beginning of November 1978, its Chairman stated that in the light of the discussion at the second special session of the Senior Advisers, attention should be focused "on defining the areas of the mandate where agreement could be reached, and also where further discussion *and negotiation* are needed".22) In point of fact the deliberations of the Group did increasingly assume the form of negotiations of the texts already tabled and other documents containing views and proposals by Governments and international organizations. The delegations of France and the Federal Republic of Germany declared their willingness to discuss the Nordic proposal but stressed again that this did not in any way prejudge their eventual position regarding the form of a possible agreement.

The negotiations were aided by the contributions made earlier, some of them in the form of amendments of certain articles of the Nordic draft and also on the memorandum annexed to it (which, as will be recalled, dealt with the question of the abatement of air pollution caused by sulphur compounds). The sponsors of the proposal on an all-European system for monitoring the state of the environment declared their readiness to redraft their text in the light of both written and oral observations. In this connection the delegation of Finland indicated the possibility of incorporating the proposal of the Eastern countries by expanding the provisions for monitoring contained in the Nordic draft.

A proposal was tabled "on behalf of the European Economic Community" which, as an accompanying statement by the Federal Republic of Germany explained, was founded on the basic approach underlying the Environmental Programme of Action of the Community; that approach was guided by the principle contained in the Stockholm Declaration of 1972 that "steps should be taken to ensure that activities in one State did not result in deterioration of the environment in another State".[23] This general principle implied, *inter alia,* the need to approve a definition of air pollution and of long-distance pollution; participation in a continuous monitoring programme; greater exchanges of information; and a programme of specific research.

The delegation of Yugoslavia, while not tabling a formal text, suggested that the proposals to be elaborated by the Special Group for subsequent examination by the Senior Advisers should contain certain elements such as a text of a draft framework convention on long-range transboundary air pollution and detailed programmes for long-term international co-operation comprising research, monitoring, transfer of air pollution-abating technology and economic and social assistance.

At the close of the third meeting of the Special Group, the Norwegian delegation, in response to the Chairman's request, agreed to consider the possibilities of modifying the Nordic draft of a convention by the time of the fourth meeting of the Special Group at the end of the month. The negotiation process was gathering momentum and the shape, scope, content and policy-thrust of the ultimate agreement emerging, particularly by the close of the Special Group's fourth meeting (28 November-1 December 1978). Those interested in following the details of the discussions should refer to the report of that meeting (ENV/AC.9/7) since it covers the results of work achieved both at the third and fourth meetings. The authors of the three principal negotiations texts, representing, respectively, the Nordic countries, most socialist countries, and the members of the EEC, tabled revised versions of their proposals. The delegation of Sweden (on behalf also of Denmark, Finland and Norway) submitted a memorandum on major elements to be considered for inclusion in an annex on scientific and technological co-operation to the text of the Nordic draft convention.

As already pointed out, it is not the prime purpose of the present study to reconstruct and record the minutiae of the formal negotiations, but to analyse the salient features, characteristics and the orientation of the process itself. In any event, in view of the fact that many of the texts, both individual and collective, were contained in informal working papers which are not available, this would be impossible. Fortunately, the material set out in certain key documents circulated during the ultimate preparatory stage, contain indications which should enable those interested to trace the way in which the various elements were fitted together to produce the final proposal on long-range transboundary air pollution, the key-item of the high-level meeting. The annex to the report of the fourth meeting of the Special Group on Topic A (ENV/AC.9/8) is particularly useful in this regard. It consists of part of the text which was elaborated, entitled "Elements for a document on long-range transboundary air pollution" and gives a list of the proposals of individual Governments, groups of Governments as well as a contribution of the OECD, and of the ECE secretariat's draft containing a "synthetic" presentation of all proposals for international co-operation in this field that had been made. It will be seen even from a cursory perusal of the "Elements for a document" that though considerable headway had been made on its structure and content,[24] a number of gaps remained. Several of the draft paragraphs had not been discussed, including the text on procedures aimed at settling disputes concerning damage caused to the environment by atmospheric pollution. Above all, the appropriate form which the agreement would finally assume remained to be considered. Furthermore, the results of the work of the Group were subject to approval by the Senior Advisers and the final dispositions could only be made by the Governments at the next session of the Commission when the results of the preparatory work could be reviewed in their entirety.

In the light of the situation the Group felt that further preparatory work was still required. Subject to the approval of the Senior Advisers, it was therefore agreed that the fifth meeting of the Special Group be held at the beginning of January 1979.

The work accomplished by the Special Group at its third and fourth meetings was reviewed by the Senior Advisers at their three-day third special session held in mid-December 1978.

When reporting to the Senior Advisers on progress the Chairman of the Special Group, after explaining the status of the text that had been elaborated ("Elements for a document"), declared that the task of the Special Group "had been advanced as far as was at present possible, without further guidance from the Senior Advisers".25) In the substantive discussion, some delegations stressed that *a political commitment* should be made to a *co-operative programme of action,* in the form of *a binding agreement* to control transboundary air pollution, *including a step-by-step procedure and machinery for its implementation.*

Other delegations considered that the problems of long-range transboundary air pollution could not be isolated from those of air pollution in general; before Governments could commit themselves to a binding agreement, further study of effects would be necessary, but this should not preclude international co-operation in efforts to control long-range transboundary air pollution.

Obviously, considerable further drafting work on outstanding points and, above all, efforts towards bringing about some kind of a compromise regarding the form of a possible agreement on the issue, the main theme of a "possible" high-level meeting, were required to enable the Senior Advisers to present to the Commission at its thirty-fourth session if not a fully agreed recommendation, at least a document which was sufficiently advanced to be finalized by the Governments at that session.

Realizing this, the Senior Advisers agreed that the members of the Special Group should persevere and consequently authorized the Group to hold a further meeting from 15 to 19 January 1979. At the same time they invited member Governments "with a view to overcoming existing differences of opinion, to submit any additional proposals to the secretariat and to request the Special Group to elaborate proposals on outstanding points, including exchange of information, consultations, implementation machinery, and settlement of disputes". (To speed up matters and facilitate the work these proposals were also to be circulated directly to other member Governments). Finally, the Senior Advisers stipulated that, while not prejudging the form of any final text, the revised version of the text should distinguish between preambular and substantive paragraphs.26)

When Special Group A convened for its fifth (and final) meeting (15-19 January 1979) it was presented with two further documents by the delegations of the United States and Canada respectively. The first "working document" utilized the elements on which agreement had already been reached, offered possible compromise formulations on those parts of the "document" not yet agreed and elements for items not yet considered. The second "working document" was intended to provide a comprehensive presentation of Canada's views on appropriate co-operative action in regard to long-range transboundary air pollution.27)

After reviewing the available documentation, the Group agreed to focus the discussion on the over-all draft text (i.e. "Elements for a document" etc..) In the course of the paragraph-by-paragraph reading of the "document" a number of important points emerged. It appeared that some substantial divergencies persisted in the formulation of certain preambular propositions bearing upon the objectives of the agreement. A number of countries reiterated their view that the principal motivation for elaborating a meaningful document was to acknowledge the need for effective international co-operation to combat the discharge of transboundary air pollutants and not just for further studies.28) Much attention was devoted to the problems connected with the crucial aspect of the follow-up mechanism of a possible agreement.29) During this particular discussion the Executive Secretary deemed it opportune to intervene by saying that in his report to ECE's thirty-fourth session (which had then just been circulated), he had referred to the similarities between the efforts which were being made by SAEP and those undertaken by ECE's Inland Transport Committee. That body, working by consensus, had over the years adopted a considerable number of binding agreements and conventions and, in doing so, it had come to exercise functions that had both supervisory and decision-making characteristics. In this way the Executive Secretary clearly implied that the necessary implementation capability could be developed within ECE's framework.

Differences of opinion persisted as to the need for mandatory conciliation and arbitration procedures and pointed to the need for further examination of this aspect at governmental level.30) It was also noted that, whereas the mandate of the Special Group, referred to the "development of procedures aimed at *avoiding disputes* concerning damage caused to the environment by atmospheric pollution" much of the discussion in the Special Group had in fact been concerned with the *settlement of disputes;* and it was therefore agreed to bring this discrepancy to the notice of the Senior Advisers.31)

The results of the work of the final meeting of the Special Group were incorporated in an amended and more fully structured text of the "Elements for a document on long-range transboundary air pollution" which was annexed to the report of the Group. The text contained indications and observations concerning the need for further elaboration of a number of points.

In sum, despite the hard work and some considerable headway, the work on topic A, without which a high-level meeting could not be held, was falling behind schedule. In particular, the key question of the form of the agreement remained unresolved. Therefore it was essential for the Senior Advisers at their seventh regular session to attempt to achieve, if not a breakthrough, at least significant progress through mutual concessions. The deliberations at that session, which took place from 19-23 February 1979, indicated that the Governments were becoming increasingly aware of the inexorable approach of this critical and crucial point in the negotiation. Thus, the delegation of Finland, on behalf of the Nordic group, stated that although "the original ... proposal for a framework convention was still the preferred concept of an agreement... the Nordic countries had taken a flexible attitude in the preceding negotiations and discussions" that had led "to a preliminary agreement which had been reached on a number of important elements. The Nordic Governments confirmed their agreement *in the expectation* that a satisfactory consensus could be reached on outstanding points, *including the form of an agreement."*[32] The representative of Finland then announced that *"as a new major concession* with a view to reaching an acceptable solution, the Nordic Governments indicated their readiness to accept that concrete measures to control transboundary air pollution caused by sulphur compounds could be taken later than originally proposed; and that these measures could be implemented progressively, following a time-table established by common agreement and set out *in an annex* to a framework convention or framework agreement". The delegate of Finland continued by saying that in "making this fundamental concession, the Nordic governments expected that certain conditions concerning the procedures for negotiations and the follow-up mechanism would be fulfilled. This implied that at a high-level meeting, *legal commitments of a general character* would have to be made in a framework convention or framework agreement".[33]

The proposed formula regarding measures to control transboundary air pollution caused by sulphur compounds was regarded by the Nordic Group as a "new major concession" because this particular category of transboundary air pollution presented a constant threat to the countries concerned and there was strong public pressure for prompt action at international level. However, a number of countries had apparently difficulties in moving so quickly and in accepting a firm commitment on a precise time-table. It seemed doubtful, at first sight, whether the Nordic proposal went far enough to dispel those difficulties, particularly since an arrangement embodied in an annex to a convention is as a rule considered to be legally binding also. Nevertheless the change in the Nordic stance was helpful in that it opened up new avenues for moving forward the negotiations on this difficult point further. Furthermore there were indications that some Governments who were opposed to the adoption of a legally binding document seemed to be more disposed towards reaching a compromise. Thus, the delegation of France declared that the EEC Governments were ready to assume "a strong and serious political commitment" to make substantial efforts to combat air pollution in order to limit and possibly to reduce emissions. They were also ready *"to take account of the international dimension* when developing their national policies"; and to translate *"the political commitment into practical terms"* such as *"the creation of a permanent mechanism for consultation"*. Yet, as regards the form of an agreement, the EEC countries were apparently not yet ready to pronounce themselves or did not wish to do so at that stage. They thought "that this problem could best be resolved by the Commission at its thirty-fourth session", emphasizing thereby the essentially political nature of this decision. However, it was encouraging that in concluding this statement the French representative observed that "the position of the negotiating parties seemed to converge, although some points were still outstanding".[34]

The delegation of the USSR, speaking on behalf of the East European countries, supported the Nordic proposal and the concept of a legally binding instrument. But "since the draft convention was unacceptable to a number of countries in the EEC other solutions should be sought". What mattered was the content, which should be instrumental in furthering all-European co-operation.[35]

It seemed that, while the resolution of the question of the ultimate form of the agreement was not feasible at that stage, a noteworthy *rapprochement* of views had taken place. An accord on the need for a framework for practical action, for an integration of national and international policies and for implementing the agreed measures seemed to emerge. The delegate of Norway stressed that the main issue was that "national policies to combat air pollution should recognise the 'international aspect' of emission control. Principle 21 of the Stockholm Declaration made general reference to this concept but did not provide for implementation.[36] The only way of developing this concept in *operational terms* would be through its inclusion in an international agreement."[37] The Executive Secretary, in the course of his intervention, stated that in his opinion the Senior Advisers had taken a crucial step forward in the history of the ECE. A more immediate question was the form of the anticipated agreement. The Executive Secretary shared the view that "form depends on content". Now that it was possible to see the content more clearly, the Senior Advisers should consider what type of agreement was appropriate.[38]

In the subsequent continuation of the discussion on the topic of long-range transboundary air pollution,[39] the EEC countries tabled a "Provisional text for negotiation", which contained new compromise formulations on a number of points which had led to differences. But once again it was stressed that the text did not prejudge the form of a final agreement. It would be necessary to refer the "Provisional text for negotiation" to the national authorities before taking a position. It was therefore agreed that the Senior Advisers would reconvene for a last (fourth) special session to conclude discussion on the preparations for a high-level meeting and to approve their report to the thirty-fourth session. In fact this special session (21-23 March 1979) represented a veritable cut-off date for the completion of the assignment, for the Commission session was scheduled to open four days later.

The compromise on topic A emerges

Meanwhile near-agreement had been achieved on the second "selected" topic B, i.e. "Low- and non-waste technology and re-utilization and recycling of wastes". The Senior Advisers had also reached an understanding on reporting to the Commission on the "other environmental topics". It was evident therefore that the last "spurt", hours from the start of the Commission's thirty-fourth session, would be focused on topic A. For, if the Senior Advisers proved able to advance the process of mutual concessions further to the point of "near-agreement", then, barring some unforeseen circumstances, it would be inconceivable that the Commission at that session would not decide to call a high-level meeting on the protection of environment in the course of 1979.

It is gratifying to record that the additional effort undertaken by the Senior Advisers *in extremis* at their fourth special session—and there are many experienced conference practitioners who maintain that pressure of time often produces last minute results—proved well worthwhile. A "near-agreement" on what was the most important and most difficult topic could indeed be achieved. The holding of the high-level meeting itself seemed thereby to be assured. Furthermore the *compromise formula which emerged appeared to be both novel and innovative.* Its potential significance for the further evolution of conference diplomacy, including its east-west "sub-system", will be discussed later.

In reopening the discussion at the Senior Advisers' special session the Nordic Governments declared their readiness to accept *in toto* the "Provisional text for negotiation" presented at the seventh session by France on behalf of the EEC member countries as a realistic basis for negotiation *on the understanding that this would lead to a binding agreement.* In this connection the delegation of Norway informed the meeting that the proposed alternative to paragraph 9 of the "Provisional text" (which dealt with control measures on air pollution caused by sulphur compounds) was being withdrawn.[40)] This was obviously meant to represent a major concession since the paragraph in question had caused considerable difficulties for some countries. Other delegations declared that they too were now in a position to adopt the "Provisional text" as a "basis for consensus".[41)]

However, on one point, namely, that of the final form that the draft agreement might finally take, "the representative of France reminded the meeting that, at the seventh session (of the Senior Advisers) some delegations had made it clear that the 'Provisional text' could not... be transformed directly into a draft convention or agreement that contained mandatory commitments".[42)]

It was at this juncture in the negotiations that a further major and ingenious concession was made by the delegate of Norway (presumably with the concurrence of the other members of the Nordic Group) which moved the negotiation process forward in a decisive manner towards ultimate agreement. In fact, what the delegation of Norway proposed helped to overcome the major difficulty for some countries. That difficulty apparently did not reside so much in their opposition to the concept of a framework convention, but rather in their *reluctance to accept mandatory commitments on specific control measures and associated time-targets.* The previous proposal to include the provisions in an annex to a convention did not solve the problem, inasmuch as these provisions, even in an attenuated form, would have remained mandatory. The representative of Norway now suggested "that an acceptable compromise might be found by utilizing the text *to develop two documents; one of these would assemble those elements which could become constituent parts of a binding instrument; the other would be a statement of intent".*[43)] The formula proposed did not only represent a genuine concession, but it proved to be a solution which made final agreement possible and, in this writer's opinion, *enriched conference diplomacy by a new form of a dual or two-tier juridico-political or politico-legal decision which under present circumstances is probably one of, if not the most effective means of inducing and ensuring practical international co-operation at the policy level not solely in an East-West context but conceivably also within other regional and global frameworks of the UN system.*

The Norwegian suggestion no doubt played an important role in the acceptance of the proposal of the officers to transform the fourth special session of the Senior Advisers into "an open-ended drafting group" to examine the suitability of the "Provisional text" as the basis for a draft convention. It was the Vice-Chairman of the special session (the representative of the United States) who, at the conclusion of the drafting group's work, presented a possible "draft Convention on long-range transboundary air pollution".[44)]

It could be argued that the Senior Advisers, by systematic negotiations both at expert and policy level, had considerably narrowed the differences and had hammered out a "near-agreement" on the form of the instrument dealing with the premier topic to be submitted to a high-level meeting for final decision and adoption. Nevertheless the text which was put before the ECE at its thirty-fourth session contained several paragraphs which remained subject to reservations (denoted by square brackets) and included a number of alternative formulations. Besides, the approval of a draft Convention was predicated on the acceptance of a draft resolution which was proposed as a companion-piece to the "draft convention". The draft of that second text, *linked to the draft*

Convention, but non-mandatory in form, was introduced, after apparently intensive negotiations, by the representative of the United Kingdom on behalf of four Governments of countries belonging to the EEC and the Nordic group, (i.e. respectively France and the United Kingdom, and Norway and Sweden), and also on behalf of the countries which had not favoured the mandatory form of the draft agreement concerning long-range transboundary air pollution as originally drafted by the Nordic group. The socialist countries had, as is known, no particular problems on this score. It was proposed that this text entitled "Working document for a draft resolution", should be recommended for submission to a high-level meeting "for consideration *in conjunction* with the possible draft "Convention".[45)]

An analysis of the rather exceptional character and the distinguishing features of what finally became the High-level Meeting's resolution on long-range transboundary air pollution will be made at a later stage.

The elaboration of recommendations on low- and non-waste technology and the re-utilization and recycling of wastes (topic B)

In contrast with the first topic, elaboration of the recommendations on the second chosen topic—Low- and non-waste technology and the re-utilization and recycling of wastes—proved a much easier task. Nevertheless, it did require a fair amount of time: four meetings of the Special Group on Low- and Non-waste Technology and Re-utilization and Recycling of Wastes (SG/LNWTRRW) of altogether 11 days' duration, as well as two meetings of the Group's Officers of altogether three days' duration, were needed in order to prepare a text entitled "Agreed Elements for a draft Declaration of Intent".

An idea has already been conveyed of how much time, but, more importantly, negotiating skill, diplomatic acumen and political effort were required to agree on the scope, content and above all on the form of the two interconnected draft decisions on topic A. In the case of low- and non-waste technology the question of aiming at some kind of binding instrument was never posed. It was clear from the beginning that the draft decision lent itself best to a non-mandatory declaration of intent or some such final document. As stated in chapter III the problems posed by this type of technology were of relatively recent origin and the very concept stemmed from the growing realization of the need for the protection of the environment and of energy conservation.

Binding regulations, it was felt, were premature. What was required as a first step towards international co-operation in this area was therefore an internationally agreed definition of the concept, a measure of concertation of national actions, the spelling out of those actions and the elaboration of a detailed plan of international co-operative activities within the framework of the ECE. The final document which emerged was important, because for the first time countries with differing political, economic and industrial structures, varying environmental problems, unequal levels of technological development, had come together to work out agreed guidelines for national actions in this domain.

As will be seen from the reports of the Special Group[46)] and from the final summary report submitted by the Senior Advisers to the Commission at its thirty-fourth session (ECE/ENV/29), the following stages in the elaboration of the proposals on topic B may be distinguished:

(1) As a point of departure Governments and international organizations were invited to supply the basic information.

(2) After an analysis of the replies on the subject received early in September 1978 by the officers of the Special Group, it was felt that the final decision which the high-level meeting might take should assume the form of a (non-binding) framework document which would contain three interconnected policy and action-oriented elements, viz. (a) a declaration of intent; (b) agreement on specific co-operative activities within the ECE framework; and (c) agreement on appropriate machinery for following-up the decisions on the topic of low- and non-waste technology by a high-level meeting. The officers also outlined the possible content of such a declaration and of the agreements. The second meeting of the Special Group (which took place from 4 to 6 October 1978) had thus a firm outline to pursue its work. One Government (the USSR) was already in a position to submit a preliminary draft of a Declaration.47) The third session of the Special Group (which met from 27 to 29 of November) continued its work along the lines proposed by its officers (which had meanwhile been endorsed by the Senior Advisers themselves at their second special session in mid-October). By that time the other major actors in the preparatory process, i.e. the Governments of Sweden, and of the Federal Republic of Germany (on behalf of members of the EEC), were ready to table their respective proposals on the basis of the three proposals and of the views expressed, and fairly swift progress was made; an agreement was reached on two important parts of a draft declaration, i.e. its preamble and its operative paragraphs.48)

The work was continued and, indeed, concluded at the fourth and final (two-day) meeting of the Special Group, held on 11 and 12 December, when agreement was reached on the main elements of the recommendations concerning (a) national action; (b) international co-operative activities within the framework of ECE; and (c) follow-up activities. The Senior Advisers (at their third special session) considered that the Special Group had fulfilled its mandate and decided that the final discussion and approval of the texts it had prepared, and amendments to those texts, should be referred to the seventh session of the Senior Advisers. There were still some unresolved matters, especially as regards the wording of the recommendation concerning follow-up action. A new formulation was elaborated at an informal meeting of the officers of the Special Group which was convened by its Chairman. Once again the use of the officers, that small and geopolitically balanced group, to resolve difficulties and to develop generally acceptable texts, proved its worth. The new formulation was endorsed by the Senior Advisers who by that time were ready to conclude that the various texts could be presented to the Commission, and that their substantive content "could form an appropriate basis for the formulation of important *political* decisions of concern to all ECE countries".49)

This final formulation was approved without change by the Commission subject as originally suggested by the Senior Advisers to subsequent legal and linguistic editing. But it was clear that the topic of low- and non-waste technology, despite its undoubted growing importance, would be a secondary theme for the proposed high-level meeting. Indeed, some delegations at the seventh session of the Senior Advisers "expressed the view that the topic *in itself* did not constitute a sufficient basis for a high-level meeting".50) But an economically sustainable use of low- and non-waste technology was becoming an increasingly important means for the abatement of air-pollution. Therefore a declaration on the subject adopted at a high level *as a complement* to the two draft decisions envisaged in the field of long-range transboundary air pollution rendered it "important", as stipulated in the agreed criteria. Although the draft decision on the subject clearly belonged to the category of non-binding recommendations of the UN type, the form in which it was cast, i.e. a Declaration of *Intent,* and the way it was structured — covering, as it did, action at both national and international levels and the machinery for its implementation, endowed the proposed instrument with a *potentially operational role in the gradual development of common technology policies* in a crucial field of environmental protection. Furthermore, its structure, though by no means unprecedented in the practice of the United Nations, combined with the fact that it would be adopted on a high and authoritative policy-making plane, demonstrated that it is possible to use the non-binding form which United Nations decisions usually assume, as a means of effectively committing Governments to a particular course of national and international action.51)

Examination of other environmental topics

Despite the numerous proposals made by Governments of other environmental topics that might with advantage be considered at a high-level meeting, it proved possible for the Expert Meeting on this matter to complete its assignment after one meeting of four days' duration (which took place from 18 to 21 September 1978). The topics had been grouped (as will be remembered) under three headings: (1) transboundary water pollution; (2) protection of native flora and fauna and their habitats; and (3) control of toxic substances and toxic wastes.

As regards the first topic which was of obvious importance in policy terms and which the experts recognized as a problem of high priority, there was a divergence of views on "whether it was appropriate for this topic to be discussed at the proposed high-level meeting".52) A similar lack of unanimity developed as regards the suitability of the second and third categories of "other topics" for the purpose. When the matter came up for further consideration by the Senior Advisers at their seventh session, "many delegations" favoured that the topic of transboundary water pollution be taken up at a high-level meeting, but once again no agreement could be reached. Similarly, as regards the question of the protection of the flora and fauna, differing views on the suitability of the subject for high-level policy examination were expressed for different reasons. However, there was general agreement that action on the subject should be initiated within the framework of ECE. Consequently the Senior Advisers agreed to include it in their programme of work. As regards toxic substances and compounds, a matter of growing concern in the context of environmental protection, it was recognized "that it would be difficult to develop recommendations and concrete proposals on this question in the time available".

At the fourth special session of the Senior Advisers held on the eve of the thirty-fourth session of ECE and which (as recounted earlier) was mainly devoted to further elaboration of a possible draft convention on long-range transboundary air pollution, it was decided that the report "should contain recommendations and concrete proposals for important decisions to be taken by a high-level meeting" on the two chosen topics only. It is, however, interesting to note that "some delegations, while maintaining that the other environmental topics referred to the Senior Advisers for consideration were not sufficiently developed to warrant important decisions at such a meeting, felt that a general discussion on environmental problems affecting the ECE region, notably water pollution problems of international interest, would be useful".[53)]

To an objective chronicler and analyst it seems that strong and convincing reasons were adduced for adding the problems of transboundary water pollution to the category of topics on which "important decisions" at the policy and at the political levels taken by a high-level meeting would have been eminently desirable, since that might have given an impetus to the existing international efforts in this domain, including those of ECE's Committee on Water Problems. Admittedly, the international aspects of water pollution were complex since in certain cases they rather seriously affected bilateral relations. As one delegation stated at the Senior Advisers' fourth special session, "if the political will existed, gradual and effective improvements could be achieved. However, because of the resistant attitude of a few Governments with bilateral problems, the region was being prevented from taking a small co-operative step towards solutions". On the other hand, some Governments may have felt that it would have been undesirable to overload the agenda of the first high-level meeting held within ECE's framework; and, in view of the specific East-West setting of the meeting, and the "Eastern origin" of the proposal to hold it, its scope should be limited and not be over-ambitious.

Nonetheless, the attention given to the "other topics" proved to be worth while. For the Commission in drawing up the agenda of the high-level meeting did provide for a "general debate on the environmental situation in the ECE region" which was to cover not only the two topics on which decisions were taken, but "also other environmental problems dealt with in the ECE, *inter alia,* water pollution including transboundary water pollution".[54)]

Although no consensus on a recommendation of "important decisions" to be taken on this major problem of pollution control emerged, the attention given to it by the Senior Advisers led to an acceleration of the work of ECE's Committee on Water Problems on a draft declaration of policy on the prevention and control of water pollution.

As a result of what some delegations called their "prodigious" efforts, the Senior Advisers had acquitted themselves well in fulfilling their mandate to act as a preparatory committee for the proposed high-level meeting. They could hardly have been expected to have gone further, even if given more time. It was for the Commission, meeting in plenary at a policy level, when reviewing the "recommendations and concrete proposals to be taken at a high-level meeting" submitted by the Senior Advisers, to resolve those matters on which it had been impossible to reach unanimity.

Many a hurdle had to be overcome, before as will be seen in the following chapter the "green light" could be at long last given.

NOTES AND REFERENCES

CHAPTER V

1. Mohamed El Baradei and Chloe Gavin, *Crowded Agendas, Crowded Rooms: Institutional Arrangements at UNCLOS III. Some Lessons in Global Negotiations.* (UN Sales No. E. 81.XV. PE/3), p. 23. However, in our view, in the case of this particular Conference it was mainly the inherent complexity of the subject-matter and the East-West setting which slowed down progress.
2. It appears that the majority of the delegates consisted of persons who normally attend the regular sessions of the SAEP, frequently over a protracted period. Incidentally the group of people involved was relatively compact. Because of the political implications of the preparatory phase, some delegations included members of the Permanent Missions in Geneva.
3. The international organizations concerned were composed of three groups: (1) UN bodies, like, first

and foremost, the United Nations Environment Programme (UNEP), the UN specialized agencies concerned, such as the World Health Organization (WHO) and the World Meteorological Organization (WMO); (2) other intergovernmental organizations involved, such as the Council for Mutual Economic Assistance (CMEA), the Organisation for Economic Co-operation and Development (OECD) and the European Economic Community (EEC), and (3) a number of international non-governmental organizations with a special interest and concern in environmental matters.

4. ECE/ENV/21, para. 8. Italics added.
5. ECE/ENV/23, para. 10. Italics added.
6. *Ibid.*, para. 21.
7. ECE/ENV/28, para. 22.
8. ECE/ENV/21, para 12. The original time-table shows that the actual duration of the preparatory work was underestimated.
9. *Ibid.*, para. 13.
10. *Ibid.* This advice seems to have been largely followed.
11. See ECE/ENV/29, para. 19.
12. For further details see ECE/ENV/29, para. 5.
13. ECE/AC.9/2, para. 12.
14. ECE/ENV/29 (see annex III, para. 4. See also ENV/AC.9/2, annex I.)
15. ECE/ENV/23, para. 13.
16. *Ibid.*, para. 16.
17. *Ibid.*, para. 18.
18. ENV/AC.9/4, para. 11.
19. *Ibid.*, para. 34.
20. *Ibid.*, para. 36.
21. *Ibid.*, para. 21.
22. ENV/AC.9/6, para. 7. Italics added.
23. *Ibid.*, annex II.
24. Such as preamble, definition and arrangement of the substantive paragraphs or articles.
25. ECE/ENV/26, para. 9.
26. *Ibid.*, paras. 13-15. The "document" was structured in a way as to lend itself easily to being adapted to the form of a convention.
27. ENV/AC.9/10, paras. 10-12.
28. *Ibid.*, para. 17.
29. *Ibid.*, paras 24-31.
30. *Ibid.*, paras 33-34.
31. *Ibid.*, para. 33.
32. ECE/ENV/28, para. 16. Italics added.
33. *Ibid.*
34. *Ibid.*, para. 17. Italics added.
35. *Ibid.*, para. 18.
36. Principle 21 of the Stockholm Declaration expresses the common conviction that States have, *inter alia*, "the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or areas beyond the limits of national legislation".
37. ECE/ENV/28, para. 19. Italics added.
38. *Ibid.*, para. 22.
39. *Ibid.*, paras. 23, 24, 30.
40. ECE/ENV/31, para. 10. Italics added.
41. *Ibid.*, para. 11.
42. *Ibid.*, para. 12.
43. *Ibid.*, Italics added.
44. After some amendment, this text was annexed to the report of the fourth special session of the Special Advisers (ECE/ENV/31). See also ECE/ENV/29.
45. ECE/ENV/31, para. 17. Italics added. This text was also annexed to the Special Advisers' report.
46. See ENV/AC.10/2; ENV/AC.10/R.2; ENV/AC.10/4; ENV/AC.10/6; ENV/AC.10/8.
47. "Declaration on Measures to Promote a Speedy Development and Implementation of Low- and Non-Waste Technological Processes." (For further details see report on the second meeting of the Special Group on this subject (ENV/AC.10/4)).
48. See ENV/AC.10/6, annex.
49. ECE/ENV/29, para. 22. Italics added.
50. *Ibid.* Italics added.
51. For a more detailed analysis see An Additional Note to Chapter VII, section entitled "The Declaration: some general observations".
52. ENV/AC.11/2, para. 14.
53. ECE/ENV/29, para. 29.
54. Quoted from the Commission's decision A (XXXIV), para. 3 (E/1979/47, p. 111).

CHAPTER VI

THE FINAL DECISION: THE COMMISSION CONVENES THE HIGH-LEVEL MEETING AND ACCEPTS THE DRAFT FINAL DOCUMENTS TO BE SUBMITTED TO THE MEETING FOR ADOPTION

The necessity of a final decision at the thirty-fourth session (spring 1979)

In opening the thirty-fourth session of the Commission on 27 March 1979, the Executive Secretary observed that "preparatory activities for a high-level meeting on the protection of the environment within the framework of ECE have occupied a prominent position in the work of the Commission over the past year. This work, which has been highly intensive and constructive, has been marked by a spirit of determination and goodwill on the part of all member Governments. As a result, the point has now been reached where the Commission *could* take an important step by authorizing the convening of a high-level meeting. Such a meeting would not only demonstrate the determination of participating States to implement the Final Act but would also raise the level of co-operation in the region to new heights."1)

Three years had elapsed since the proposal was first launched. It was indeed difficult to see how the final decision could politically be delayed much longer, and most countries realized this.

Ultimately the Commission did take this step at the conclusion of its thirty-fourth session. For a number of reasons, some of which were due to political tensions, suspicions, sensitivities and hesitations which characterize East-West relations (although a number of "West-West" differences had also apparently to be ironed out), it was taken *in extremis* after considerable further discussions and delicate, even frequently acrimonious negotiations. In the end, thanks to the extraordinarily thorough and exhaustive preparatory work, the alignment of political interests and the initial impact of the Helsinki Final Act, still tangible at the time, the Commission's propensity for compromise and consensus was to prevail. But still further drafting work was required of a substantive and, above all, of a political nature. In particular, full unanimity had to be achieved on the acceptability of the mandatory character of the draft instrument that had been elaborated, and on the proposed linkage of that instrument with an interpretative and politically binding resolution on the subject. Furthermore, the agreed elements for a draft declaration of intent and recommendations concerning low- and non-waste technology and re-utilization and recycling of wastes had to be recast into one single integrated, appropriately structured and worded document. Finally, agreement had to be reached on the form and contents of the agenda of the high-level meeting as well as on its organizational arrangements. It was not entirely clear whether all this work would be completed during the thirty-fourth session of the Commission (scheduled to conclude on 7 April 1979) or whether some of it would have to remain outstanding until after the Commission had decided to convene the meeting.

The role of informal negotiations

The proceedings of the session, contained in its report (E/1979/47), and the summary records furnish only a partial picture of the ultimate phase of preparation and negotiation which preceded the adoption of the final decision. Much of the work was done, almost from the beginning, in informal groups, more particularly within the groups of Western and Eastern countries, within a separate group of countries members of the EEC, and an East-West contact group, not counting the many informal contacts between the delegations and with the Executive Secretary. No records whatsoever exist of these informal exchanges and though, no doubt, some information and insights might have been gleaned through interviews with the delegates primarily concerned, the author of this study, rightly or wrongly, came to the conclusion that at best the insights which he might thus have obtained would have been too fragmentary and too slanted to provide sufficient evidence for accurate assessment. Besides, however tempting it might be to reconstruct the course of negotiations in the various groups and to identify negotiating postures and the ultimate trade-offs, the desire of the delegations and the various groupings for a due measure of confidentiality should, as a necessary feature of East-West conference diplomacy under United Nations auspices, be respected.

It would appear that a great deal, if not the bulk, of the informal negotiations, both on substance and form was centred on the text for a "possible" Convention on Long-range Transboundary Air Pollution and proceeded within the wider western group (which comprised the EEC member States as well as the other countries of western Europe). This was not surprising in view of the differences of approach reflecting differing material interests within that group which had become visible during the preparatory phase. The fact that the western group had to function within the framework of a region-wide organization, the ECE, and the political and "politicized" setting of the original Soviet proposal for a high-level meeting must have added a special dimension to the intra-Western deliberations. Certain Western countries (more particularly the Scandinavian group) were pressing for well-known reasons for a decision to convene the high-level meeting. Some of the other Western countries, especially those where, as a result of their industrial structure and location, much of the transboundary air pollution fluxes seemed to originate, were still reluctant to accept a legally binding document with too many "teeth" in it. Furthermore, fears may well have been voiced that if the high-level meeting were to lead to too many "important decisions" and be regarded as an outstanding success, this would lead to increased pressure for the convening of other high-level meetings on more complex and sensitive issues which some major Western countries were not prepared to contemplate. At the same time many Western delegations must have felt that a final decision could not be postponed for yet another year, though an unexpected issue, i.e. the question of the adherence of the EEC as a separate entity to the Convention, which arose at the very end of the session, placed this long-awaited decision in great jeopardy. The Eastern countries were, of course, particularly anxious to see a clear-cut decision taken at the session to convene a high-level meeting on the protection of the environment which could not only be expected to produce meaningful results but also thereby set a viable precedent for further such conferences at policy level.

The last debate

The proposal to hold inter-State conferences on major sectors of the region's economy, and more particularly the proposal for a high-level meeting in the field of the protection of the environment, on which the Commission at its preceding session had passed resolution 1 (XXXIII) part II, formed item 5 of the agenda for the thirty-fourth session. Leaving aside the informal negotiations in the course of which the ultimate consensus was hammered out, this item was formally discussed in two contexts: (1) as part of a general debate held in plenary; and (2) in connection with a detailed consideration, in the Sessional Committee, of the work of the Principal Subsidiary Bodies of the Commission.[2)]

The general debate on the subject was, of course, centred on the key document, i.e. the report of the SAEP regarding the implementation of Commission resolution 1 (XXXIII) (ECE/ENV/29) which contained "recommendations and concrete proposals for important decisions to be taken at a high-level meeting". In addition, the report by the Executive Secretary entitled "The Commission's activities and implementation of priorities in 1978" (E/ECE/964) was also relevant since it reported on the follow-up on the "important initiatives stemming from the Final Act", i.e. the proposal of the Government of the USSR made at the thirty-second session of the Commission, in the spring of 1976. The report's chapter III ("Major areas of challenge to the Commission") in which the Executive Secretary expressed the view that environment, energy and trade could be considered as the most important problems confronting the Commission, contained a succinct description of the current status of work on preparation for such a meeting "which were in the forefront of the Commission's attention" during the year preceding its thirty-fourth session. After recalling that ECE first started its pioneering work on water pollution control as early as 1956, the Executive Secretary observed that the "importance of environmental questions in the ECE region has been reaffirmed by the initiatives launched by the USSR and by important decisions taken at the thirty-second and thirty-third sessions of the Commission".[3)] The Executive Secretary considered that participation of member Governments in the preparatory process bore witness to a constructive attitude. He added that "work thus far gives promise that this body (i.e. the SAEP) will fulfil its mandate and that the high-level meeting would be convened during 1979".[4)] Such a meeting "would provide the possibility of a *major impulse* for the future activities of ECE in the environmental area".[5)] Casting aside the conditional tense, the Executive Secretary went on to say that the high-level meeting "will have an important *moral and psychological effect* since it will *demonstrate the importance attached to environmental problems by personalities in senior policy-making positions* of Governments throughout the region. More importantly, *the meeting will signify a transition of ECE into activities of a more operational character*".[6)]

The above excerpts show clearly that the Executive Secretary was prepared to put on record his commitment to a positive outcome of the Commission's consideration of agenda item 5.

Turning now to the general debate in plenary of the Commission's thirty-fourth session, much of it was, inevitably, repetitive of previous discussions and need not be summarized here. From the agreed summary of the debate contained in the session's report it will be seen that "most delegations" expressed satisfaction with the progress made and commended the Senior Advisers on the way in which they had completed the work assigned to them.[7)]

Despite differences in the assessment by the delegations of the degree of preparation reached by the Senior Advisers it appeared clearly that none questioned that the time was ripe for the Commission to take at the session a decision to convene a high-level meeting dealing with environmental matters in the course of 1979. However, different ways of disposing of the work that remained to be done were proposed. This particular portion of the report explains the various approaches in a succinct manner: "A number of delegations considered that the documentation submitted by the Senior Advisers to the Commission constituted an adequate framework for future co-operation in this field. Other delegations *added* that the results achieved were *sufficient* to regard the preparations for a high-level meeting as *mainly completed and provided the basis to take a definite decision on the convening of a high-level meeting at the plenary session.* In the view of those delegations unresolved questions *could well be finalized within the time up to the convening of or even during the high-level meeting itself.* At the same time, it was noted that *negotiations had been fruitful* and many concessions had been made, *but* that *there were still differences* of view remaining; however substantial they might be, hope was expressed *that they could be resolved at the current session thus enabling the Commission to take a decision on holding a high-level meeting*".8) "On the topic of low and non-waste technology and re-utilization and recycling of wastes, delegations expressed satisfaction that the work of the Senior Advisers had reached an advanced stage. Together with long-range transboundary air pollution, this topic would provide an adequate base for an agenda of a high-level meeting."9)

Throughout the discussion the link between a positive decision on the holding of the high-level meeting and the progress in the implementation of the Final Act was stressed on repeated occasions by delegations of both Eastern and Western countries.

Although the exchange of views on whether or not "other topics" should be added to the agenda of the high-level meeting consisted essentially in a reiteration of opinions which had been expressed at the technical level during the preparatory phase within the framework of the Senior Advisers, two of its features are worth noting:

(1) Several delegations stated that, even if those topics did not, or not yet, lend themselves to the adoption of "important decisions" at the high-level meeting, *provision should be made for a wide-ranging discussion at that gathering on all major environmental issues of the region;*

(2) Many delegations emphasized and re-emphasized at this policy forum of the Commission the urgent importance of progress in the control and abatement of transboundary water pollution, and some of them urged that, in addition to discussing the problem, the high-level meeting should also adopt a policy declaration on the matter.10)

Altogether the main thrust of the general discussion was that ECE's members coming from all parts of the region were strongly in favour of the Commission taking a decision at the current session to convene a high-level meeting in 1979. A perusal of the summary records provide chapter and verse for this assessment11) even if the motivations varied. The USSR and other East European countries were getting increasingly restive and felt that if the Commission were once again to postpone the decision because of the insistence of some delegations on the need for further preparation, the high-level meeting might never get off the ground. Some Western countries, especially those which adhered to the policy of neutrality, considered that the holding of a high-level meeting would not only strengthen the ECE, but also the entire Helsinki process. The Scandinavian group of countries had the added motive, already mentioned, to help bring about, as soon as possible, a harmonization of national policies on the control and abatement of transboundary air pollution whose nefarious effects on their environment they could not halt by national measures alone. But some members of the EEC were not prepared to agree to the convening of the high-level meeting unless the documents containing a possible draft "Convention on Long-range Transboundary Air Pollution" was finalized *during* the thirty-fourth session. The EEC countries realized the strong pressure on them from a wide range of ECE member countries: hence their insistence on intensive intra- and inter-group negotiations, with a view to agreeing on this document in the course of the session. By contrast, the draft Declaration on Low- and Non-Waste Technology and Re-utilization and Recycling of Wastes had a very smooth passage. Both substance and structure of the draft proved acceptable.

Gradually, it emerged from the informal negotiations that an effort was to be made to elaborate, finalize and subsequently to accept all draft documents to be submitted to the high-level meeting, to "wrap up", so to speak, the entire "package" by the end of the Commission's session so that the high-ranking representatives of the Governments who would be taking part in the high-level meeting would be in a position to adopt the various texts without discussion. This meant that no negotiations were contemplated during the meeting, so that, as the Executive Secretary had envisaged, "it could be expected to last two to three days.12)

Tentative discussions on the prospects of high-level meetings on energy and transport

As the final decision on convening the high-level meeting on the protection of the environment was approaching, the question of the possibility of further such meetings dealing with energy and transport was once again addressed.

On transport there was little discussion. The protagonists of the Soviet proposal put on record their view that "a high-level meeting which would set out the main orientations of a programme of intra-European co-operation in the development of the various means of transport, including the field of investment, could play an extremely useful role.13) But no real "dialogue" on the matter took place.

On the other hand, a significant exchange of views on the possibility of a high-level meeting on general energy problems did occur during the general debate in plenary when "delegations recalled that at its thirty-third session the Commission had expressed its wish to consider constructively at its thirty-fourth session the establishment of a new Principal Subsidiary Body entitled "Senior Advisers to ECE Governments on Energy". "A number of speakers suggested that, should such a body be set up, its mandate should be based on a full and extensive exchange of information and views on energy. Based on a satisfactory outcome of this mandate, it could, *at a later stage,* be entrusted with the task of exploring topics which might be suitable for consideration at a high-level meeting. Other delegations were of the opinion that, *in view of the urgency of the problems* to be solved in the field of energy through co-operation at the international level, *it would be desirable if the experience gained in the preparations for a high-level meeting on the protection of the environment could be used without delay for the launching of preparatory work for an all-European conference on energy, as proposed by the USSR.* The preparation of such a conference could be the *first task* assigned to the Senior Advisers on Energy, if such a body were set up, or could be entrusted to the existing competent Principal Subsidiary Bodies of the Commission."[14] These differences in approach presaged delicate and difficult negotiations.

The question of the adherence of the EEC to the Convention surfaces

The thirty-fourth session was scheduled to end on 7 April 1979. However, by the time it was expected to wind up its business, it appeared that although the objections to adopting a legally binding instrument had meanwhile been removed, the work of finalizing the text of the draft Convention on Long-range Transboundary Air Pollution had been essentially completed and the agenda for the high-level meeting drawn up, a new problem of high political sensitivity, namely the adherence to the Convention of the European Economic Community as a separate entity, surfaced. This caused a last minute hitch, which was to lead to considerable difficulties, especially between the ECE Governments which were members of the two principal subregional economic integration organizations, i.e. the CMEA and the EEC. It was also to result, for the first time in the history of the Commission, in an unscheduled recess of a plenary session.

It appears that, when the Western group had completed its work on the draft Convention and showed it to its East European colleagues, the East European countries were prepared, *grosso modo,* to go along with it. However, one new draft article providing for the adherence to the proposed Convention of the European Economic Community had been introduced. This proved to be totally unacceptable to the Soviet Union and other Eastern European countries.*

Both the Western proposal and the negative reaction to it by the Eastern group were not altogether unexpected. Yet the common interest in having the question of the protection of the environment considered at a policy level, combined with the ECE-type of conference diplomacy geared to seeking and finding compromise solutions, was ultimately to lead to a settlement of a highly delicate East-West issue at the time.

On 7 April 1979 (originally scheduled as the closing day of the thirty-fourth session), after a series of statements by a number of delegations the Commission decided to recess the session until 23 April. The statements, made at the session's 13th meeting, were, contrary to customary practice, identified in the report (partly because of the political significance of this exchange and partly because no summary records were taken).[15] The first statement was by the delegate of the USSR who said that "now, when even those who opposed the... proposal were obliged to recognize that careful preparations had been made, the implementation of this important proposal had been linked with a *political condition* which... was quite unacceptable to the socialist countries". He was referring "to the *unconditional recognition of the European Economic Community*—a condition which was in no way connected with the ability of the countries of the region to proceed with the organization of co-operation on a broad scale in the environmental sphere... The delegate wished to express the hope that a reasonable approach would be adopted and that genuine interest in all-European co-operation would prevail".

Next, the delegate of Belgium, "speaking in the name of the western group of countries" said that "despite political difficulties and the technical problems involved", the western group "had produced two complementary texts—one a draft convention on transboundary air pollution and the other a draft resolution on the same subject". The delegate also said that "on one problem of great importance it had not been entirely possible to reconcile the differing points of view. This was not merely a formal problem but one which concerned the member States of the Community and also touched directly on the implementation of the convention which everyone wished to conclude as soon as possible. It was for this reason that the western group of countries considered it necessary to *settle this question before taking a decisive step forward...* he was confident that a solution could be found enabling decisions to be taken by the Governments concerning the environment *and energy,* the work programme and all the activities of the Commission...".[16)]

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* Now that relations between the EEC and CMEA have been finally normalized, this particular episode seems to be of little consequence. The account of it has been retained because it forms part of the political background history and also because it shows that, given political will, sensible solutions can be found through conference diplomacy.

The delegate of France, speaking on behalf of the European Economic Community stated "that the members of the Commission... were now facing a serious problem, namely whether the European Economic Community would participate or not. Since this participation was essential in an increasing number of international conventions, for well known reasons of legal competence and international law, *the delegations concerned could not subscribe to the texts prepared so long as their partners had not formally given their agreement to the signature of the Convention by the EEC.* Such *agreement had not been given...* the delegations concerned had tried to dissociate the basic question of the signature by the Community, *on which no compromise was possible and which had to be settled before they could agree to the holding of the high-level meeting,* from the question of modalities.... Since this dissociation was rejected for the reasons clearly stated by their partners, *there was no other alternative than to take a little time to solve the problem as a whole, i. e. to seek an acceptable formula under which the Community could participate under equitable conditions in the Convention on long-range transboundary air pollution."*

The delegate of Yugoslavia expressed "his delegation's regret regarding the way in which the work of the session had to be adjourned.... His delegation, though disappointed... hoped that the spirit of co-operation and co-existence would lead in two weeks' time to concrete results". Similar sentiments were put on record by the delegate of Romania.

The delegate of the United States thought that "everyone was indebted to the Executive Secretary for the preparations which had been undertaken and *expressed the hope that the parties seeking to resolve the problems which caused the recess would solicit and involve the active participation of the Executive Secretary".* The delegate appreciated "the conciliatory statements by other representatives and expressed the hope and expectation that the session would be reconvened in a most constructive manner".

The session goes into recess to reach a compromise

It was clear from the outset that a compromise had to be found in the interim. Preparations had gone too far and failure to agree on a matter on which, substantively and politically, the interests of countries were not polarized along East-West lines, might have led to highly undesirable reactions. Both the EEC members (and the EEC as such), as well as the socialist countries were faced with a genuine predicament; and it was therefore unfortunate that the problem had arisen rather late in the proceedings of the thirty-fourth session. There had to be some give and take on both sides and it was for the diplomats during the recess to find a solution that would be acceptable to both sides. By the time the thirty-fourth session reconvened the matter had been resolved. Common efforts and common sense had finally produced an acceptable formula.

The background to the last major hurdle of a specifically East-West nature which held up the final decision to call the high-level meeting is a complex one, and interpretations vary depending on the political vantage point of the beholder. During the period of the preparations for the high-level meeting sporadic consultations had been going on between the CMEA and the EEC for the establishment of direct relations, but these had not yielded results.[17) It is therefore argued that because of the specific East-West orientation and character of the quasi-totality of ECE's work this circumstance could not but have an adverse impact on the Commission's activities, including the preparation of the high-level meeting during its last phases. Despite all efforts to shield this particular conference process from unnecessary political controversy the Commission was squarely confronted by a major East-West difference, of which all were conscious but which surfaced only at this rather late stage, possibly for bargaining reasons. Indeed, a Western writer wonders whether the last-minute difficulty has to be ascribed to tactical considerations of the Eastern side, rather than to a matter of principle.[18) However, inclining to the belief that, though tactical considerations are, of course, always present on both sides in a negotiation, the strongly negative initial response of the Soviet representative to the demand of the EEC spokesman was mainly due to the absence of a *de jure* recognition of the EEC by several countries of Eastern Europe. Incidentally, this situation had created problems with respect to the adherence by the USSR to a number of international commodity agreements of which the EEC was a party. These problems were solved by the addition of reservations to Soviet Union's signature. Eastern preoccupations, though possibly not entirely free from tactical considerations, seemed therefore to be of a more fundamental nature.

The session reconvenes: the nature of the final accord on EEC's adherence to the Convention

The Commission held a brief meeting on 23 April, and on 27 April, at the following (final) meeting of its session, it adopted "a resolution and other decisions, including a decision on the High-level Meeting".[19)

Before doing so, the Commission heard a statement by the delegate of Austria in which he welcomed the draft Convention on Long-range Transboundary Air Pollution as a major step forward and furthermore (and somewhat unexpectedly) stated that, in his view, "air pollution" as defined in Article 1 of that document "included possible adverse emissions resulting from the operation of nuclear power plants, because these emissions were nothing else than the introduction of substances and energy into the air".[20)

After the adoption, "statements were made by the representatives of the USSR, France, Romania, Yugoslavia, the USA, Hungary and Belgium". These statements explain the nature of the compromise which was elaborated during the recess concerning the question of the signature of the Convention by the European Economic Community and which cleared the way for taking the final decision. The essential passages are deliberately quoted for the sake of the completeness of the historic part of the present study.

In a comprehensive statement, the delegate of the USSR, who spoke "on behalf of the delegations members of the group of socialist countries within the ECE" stated that "the fact that final agreement had been reached to convene a high-level all-European meeting on the protection of the environment... was of particular importance. The actual success of this major step within the framework of ECE which followed up the provisions of the Final Act... would depend on the joint efforts of ECE member countries and on their desire to contribute to the solution of the urgent problems of our time. One of the manifestations of this desire should be *the States' readiness to hold the meeting at a level not lower than that of ministers or of officials of equal status.*"21)

Regarding the understanding reached which provided that one of the High-level Meeting's "principal final documents—the Convention on Long-range Transboundary Air Pollution—might be signed, apart from member States22) of the ECE, by regional economic integration organizations", the Soviet representative made the following declaration: "in accepting the formula contained in that agreement for participation of this type, the delegation of the Soviet Union and the other socialist countries considered that this did not change their attitude to various international organizations, as well as that it did not change the status of these organizations within ECE, could not serve as a precedent for negotiations on other matters or agreements and did not give additional advantages to any party".23)

Speaking on behalf of the European Economic Community, the delegate of France "warmly welcomed the satisfactory conclusion of the Commission's work... the decision to hold a High-level Meeting on Protection of the Environment was particularly to be welcomed... the European Economic Community intended to contribute fully, in the form and manner appropriate to its structure, to the implementation of the Convention... The Convention was to provide that it would be open for signature and accession also by regional economic integration organizations having competence in respect of the negotiation, conclusion and application of international agreements in matters covered by the Convention, and that, in matters within their competence, such organizations should, on their own behalf, exercise the rights and fulfil the responsibilities which the present Convention attributed to their member States".24) In point of fact, the representative of France quoted, virtually *verbatim,* the dispositions concerning regional economic integration organizations as set forth in Article 14 of the draft Convention. That Article also made it clear that when a regional economic integration organization exercises the rights which the Convention attributes to their member States, "the member States of these organizations shall not be entitled to exercise such rights individually". The only comment which the representative of France added was that these dispositions enabled the European Economic Community to become a full Contracting Party.25)

Against the background of those two declarations what does the compromise on the participation of the EEC in the Convention amount to?

(1) The specific reference to the EEC as one of the Contracting Parties in the Convention (which was contained in the Western draft circulated before the thirty-fourth session was recessed) was deleted and replaced by a general reference to "regional economic integration organizations".

(2) In view of the dispositions contained in Article 12 which regulates the adoption of amendments to the Convention by an explicit consensus rule, the question of the EEC exercising an additional vote appeared to some as being somewhat irrelevant. However, since the Convention did not specify the modalities for the adoption of decisions in the Ex-

> ecutive Body, the procedural aspect of decision-making under the Convention remained a matter of considerable preoccupation to the Romanian delegation which, it will be remembered, had on earlier occasions advocated that any instrumentalities for co-operation which might result from the process of the implementation of the Helsinki Final Act should be subject to consensus as defined by the CSCE. In his statement at the final meeting of the thirty-fourth session of the Commission the representative of Romania reverted to this aspect in the context of the proposed Convention, pointing out that "since the convening of the High-level Meeting was an outcome of the provisions of the Final Act of CSCE, the delegation regretted that the text of the Convention as agreed upon did not expressly provide for the decisions of the proposed executive organ... to be taken by consensus, in conformity with the spirit and letter of the Final Act. Since the Commision had been taking its decisions by consensus for more than thirty years... the adoption of the Convention and its subsequent implementation should take place within strict observance of the consensus as defined and applied by the CSCE."26)

The Romanian delegation was also anxious to put on record its interpretation of the wording in the Convention on the subject of participation in the Convention of regional economic integration organizations constituted by States members of ECE. The delegation considered that this wording referred "exclusively to any such organization to which its member States had transferred competence to sign, conclude and apply international agreements on their behalf and to exercise the rights and responsibilities in the matter of transboundary pollution".27)

Without wishing to embark upon legalistic casuistry and assuming a continued presence of good faith on the part of the Contracting Parties without which no instrument of international law can be implemented, it appears that the change in the wording of the Article 14 read in conjunction with the interpretative statements made by the spokesmen of groups and individual delegations as recorded in the Commission's report, define the nature of the compromise on the question of the EEC signature—no exclusiveness, no additional advantage to any party, and full protection of the State interests of all States participating in the ECE, both members and non-members of regional integration organizations by the continued observance, in fact, of the consensus principle.

While the delegation of Yugoslavia did not comment in any detail on the positive decision on the High-level Meeting which it welcomed, it observed that there "was much still to be done and there were other problems which should be tackled as soon as possible... However, *the spirit of co-operation and political goodwill...* showed that the Commission was on the right lines so far as concerned the impulse needed for economic co-operation...".28)

The delegate of the United States said "that he also regarded the decision to move forward to a High-level Meeting... as a very important step forward for ECE and for co-operation among its member States... the Commission must be careful in the creation of new bodies, must assign to them clear responsibilities and mandates and must make sure that these mandates had been fulfilled. Thus, while *high-level meetings* were not the principal reason for the existence of any ECE body, they *might be a significant and important adjunct to the normal activities of some bodies...* In setting out the responsibilities of a high-level meeting, the Commission had again added to the responsibilities of the secretariat and the already strained resources of the ECE... He expressed the hope that, *...in order to cope with these additional problems the possibility would be considered of providing the necessary resources by the reduction, or even elimination of some of the less important work...".*

The delegate of Hungary, speaking "on behalf of the delegations members of the group of socialist countries within the ECE, stated that the decision on the holding of the High-level Meeting in the field of the environment reflected the real spirit of co-operation that prevailed".29)

Finally, the delegate of Belgium "underlined the very important results which had been achieved at the current session thanks to the goodwill of all participants".30)

The Commission convenes the High-level Meeting

The two decisions adopted by the Commission which are of *direct* concern to the present study are the resolution 1 (XXXIV) "The Work and Future Activities of the Commission and the Proposal in regard to the Holding of All-European Congresses or Inter-State Conferences on Co-operation in the Field of Protection of the Environment, Development of Transport, and Energy", and decision A (XXXIV)—"High-level Meeting within the Framework of the ECE on the Protection of the Environment" (reproduced in annex IV). They are largely self-explanatory. Paragraphs 7, 8 and 9 of the resolution dealt with the High-level Meeting. In them the Commission noted with satisfaction the preparatory work carried out by the Senior Advisers; agreed that "following completion and acceptance by the Commission" of the three texts, containing the draft Convention accompanied by the resolution on the first topic as well as the draft declaration on the second topic "the... criteria for the convening of a high-level meeting on the protection of the environment within the framework of the ECE have been met" and stated that it "decided therefore to convene the High-level Meeting... from 13-16 November 1979 and, in this regard, draws to the attention of member Governments decision A (XXXIV)". In it the Commission recapitulated the reasons which led to the convening of the High-level Meeting, and agreed that the treatment of the two topics in question would require a high-level of representation, held promise of important decisions on a subject of region-wide concern, and would not lead to unnecessary duplication of the work of the international organizations. The Commission also considered that "during the High-level Meeting a general exchange of views on the other topics considered by the Senior Advisers..., namely water pollution including transboundary water pollution, protection of native flora and fauna and their habitats, and toxic substances and toxic wastes could be useful".

In addition, decision A (XXXIV) contained an indication of the detailed dispositions for the convening of the Meeting itself. Apart from the date (which had been fixed by the Commission in resolution 1 (XXXIV)), the ECE decision enumerated the three draft documents to "be submitted to the High-level Meeting for formal adoption", after an *ad hoc* group of experts, to be called by the Executive Secretary had finalized their "legal and linguistic editing".31) Finally, the Executive Secretary was invited to make the necessary preparations for the Meeting and to draw up the agenda in a prescribed manner.

The complex and protracted preparatory phase had thus been completed. The Commission, by completing and *"accepting"* all draft decisions, had thereby opted for the scenario of a High-level Meeting of short duration without negotiations. The rationale for this choice was presumably the general desire to obviate any last-minute hitch which might have put the entire carefully crafted and finely balanced operation at risk. At the same time, it would be wrong to regard the High-level Meeting itself as a mere ceremonial. Duly accredited and policy-making representatives were to *adopt formally* the texts of genuinely important decisions, and to affix their signature to one of them. Furthermore a comprehensive review of the environmental situation in the ECE region was to be conducted for the first time at such a high and authoritative level. All this would impart a qualitatively new dimension to the Conference.

The period before the opening of the High-level Meeting was used by the Executive Secretary, in consultation with the Governments, to settle all the details of the "scenario", including the formal opening and the election of office-bearers, to agree on the order of business and presumably also on the format of the report. In this way the smooth running of one of the most important, and politically and institutionally the most innovative meeting ever held "within the framework of the ECE" would be ensured.32)

NOTES AND REFERENCES

CHAPTER VI

1. Press release ECE/GEN/7, p. 2. Italics added.
2. E/1979/47, paras. 48-58 and paras. 241-249.
3. E/ECE/964, paras. 57 and 63.
4. *Ibid.*, para. 67.
5. *Ibid.*, Italics added.
6. *Ibid.*, para. 68. Italics added.
7. E/1979/47, para. 49.
8. *Ibid.*, para. 50. Italics added.
9. *Ibid.*, para. 51.
10. See e.g. E/ECE(XXXIV)/SR.4, p. 7 (Spain); and E/ECE(XXXIV)/SR.5, p. 6 (Austria).
11. See E/ECE(XXXIV)/SR.2-11. For reasons of economy no summary records were made of the 1st, 6th-10th, 12th and 13th meetings (first part of the session) nor of the 14th and 15th meetings. Since then all summary records of meetings of the Commission have been discontinued. This makes it difficult for outside researchers to identify the delegations whose views are summarized in the Commission's reports.
12. E/ECE/937, para. 18.
13. E/1979/47, para. 57.
14. *Ibid.*, paras. 54-56.
15. A fairly full résumé is contained in the Commission's report on its thirty-fourth session (E/1979/47, paras. 82-98). Because of the importance of this particular phase of the session for a proper understanding of the making of the High-level Meeting on the Protection of the Environment, the writer felt justified in reproducing the key passages from these statements.
16. E/1979/47, paras. 86-90. When speaking on energy, the delegate of Belgium mentioned "the proposal which had been made which would give a new impulse to ECE's work. Through the creation of a new subsidiary organ, information indispensable to the taking of decisions could be made to form the basis of further co-operation in Europe, and this exchange of information *might even lead to the exploration of topics for an eventual high-level meeting.*" (para. 88, italics added).
17. It was not until June 1988 that, after long negotiations, official relations between these two major international economic integration groupings were established.
18. See E. Bailey-Wiebecke, *Die Wirtschaftskommission für Europa (ECE) vor dem KSZE Folgetreffen in Madrid. Entspannugsfortschritte im multilateralen Bereich?* (Bundes institut für Ostwissenschaftliche und internationale Studien, Köln, No. 25 (1980)), para. 30.
19. E/1979/47, para. 100.
20. *Ibid.*, para. 102. This view was not discussed or contested at the time. Yet when the Government of the Federal Republic of Germany submitted the Convention for ratification to Parliament in December 1981, it stated without further explanation that Article 1 "does not cover radioactive substances". While after the Chernobyl accident comments in the press and in some legal periodicals claimed that the Convention did apply to radioactive pollution, this was contested by other West German jurists. This matter does not seem to have been fully clarified.
21. E/1979/47, paras. 106-107. Italics added.
22. Strictly speaking, according to Article 14 of the Convention, States participating in the work of the Commission in a consultative capacity may, and did in fact, sign the Convention.

23. E/1979/47, para. 108.
24. *Ibid.*, paras. 112-113.
25. *Ibid.*, para. 113.
26. *Ibid.*, para. 119. Subsequently, after the Convention entered into force, the Chairman of the Executive Body established under Article 10, proposed at its first session, that the EB apply the rules of procedure of the ECE, taking into account the provisions of Article 14 of the Convention. The Executive Body decided to apply the rules of procedure of ECE with the provision that certain amendments to the rules might have to be made in order to suit the purposes of the Executive Body (see chapter X). (For a discussion of this aspect, see chapter VIII).
27. E/1979/47, para. 116.
28. *Ibid.*, paras. 120-123.
29. *Ibid.*, para. 124.
30. *Ibid.*, para. 125.
31. *Ibid.*, para. 126.
32. Reference should be made to the decisions of the Commission concerning the general energy field. From the discussions at the preceding (thirty-third) session on the possibility of a high-level meeting on energy, it appeared that while there was general agreement to establish a new principal subsidiary body to deal with energy, there were considerable differences of opinion as to the mandate of such a new body, especially with regard to the preparations of a high-level meeting on energy. A number of influential Western countries were obviously not disposed to authorize the new body to proceed forthwith with preparations for such a meeting as its primary task.

    Agreement was reached to establish a Principal Subsidiary Body entitled "Senior Advisers to ECE Governments on Energy"; but this body was to function on an *ad hoc* basis; i.e. in a kind of probationary manner. The Commission, in resolution 1 (XXXIV) reiterated the importance of information and *views* between ECE Goverments on general energy problems, including *energy resources, and national objectives and policies* in this area. Such an orientation of the work to be undertaken was a significant step for the ECE and potentially promising. But with respect to the question of the holding, in a foreseeable future, of a high-level meeting on energy, the agreement did not imply any firm and unqualified commitment to work towards such a goal. What was agreed was, as the resolution puts it, that the activity of the new *ad hoc* body "would provide a basis for closer international co-operation on energy matters and, *inter alia,* for discussion of problems related to a possible high-level meeting on energy organized within the framework of the ECE". (E/1979/47, p.109, resolution 1 (XXXIV), para. 10. Italics added).

    The mandate of the Senior Advisers was spelled out in a related decision (B (XXXIV)—Energy). The third part of that mandate did provide for an examination of "problems related to a possible high-level meeting on energy organized within the framework of ECE". The interlinked paragraphs 3 and 4 of the decision bear the clear marks of a presumably closely negotiated compromise: in paragraph 3 the Commission declared its willingness "to consider, as of its next session, an assignment to the Senior Advisers... for the exploration of topics for a possible high-level meeting on energy... on the assumption that satisfactory progress has been made in all areas of the mandate of the new body". Paragraph 4 embodied a related declaration of the Commission's willingness "to consider as of its next session in the light of the progress achieved in the field of energy, making the newly created *ad hoc* body a permanent one". It was therefore clear that the possibility of a high-level meeting was conditional and that, in the best of circumstances, the movement towards a consensus on this matter would be slow and was uncertain.

    However, all things considered, the entry of the ECE for the first time into the general energy field after more than thirty years of existence was no mean achievement. (For full text of the decision, see E/1979/47, pp. 112-113.)

CHAPTER VII

THE HIGH-LEVEL MEETING IN SESSION (13-15 NOVEMBER 1979)

Scope and level of participation

ECE meetings are usually attended by technicians, experts, ambassadors accredited to the United Nations at Geneva, senior officials from the relevant ministries, and only occasionally (mainly at gatherings of ECE's plenary sessions) by policy- and decision-makers, such as deputy ministers or (very rarely) ministers. The unprecedented character of the High-level Meeting on the Protection of the Environment, held within the framework of the ECE, was symbolized by the external circumstances surrounding it. It forgathered in the principal Conference Hall, the *Salle des Assemblées,* the largest and most prestigious meeting facility of the Palais des Nations, the headquarters of the United Nations Office at Geneva. The setting and the inherent ceremonial underline the importance of the occasion. If used judiciously, they can play a positive role in conference diplomacy.

The High-level Meeting, although regional in character, was open to UN members outside the region. Thirty-three (out of 34) members of the ECE, three European countries attending under the provisons of article 8, and one Latin American country attending under the provisions of article 11 of the Commission's terms of reference, participated in the Meeting.1) In addition 10 UN bodies, programmes and agencies, two intergovernmental organizations, nine non-governmental organizations and representatives of two international secretariats (invited by the ECE secretariat) also took part. The participation of this impressive array of representatives of bodies concerned with different aspects of the protection of the environment (including that of the mobilization of public opinion) enhanced the standing and value of the Meeting.

Even in the absence of any specific guidelines as to what constituted a "high-level" of representation in United Nations conference diplomacy, the policy-making attributes of the participating States is clearly reflected in the brief report of the Meeting (see annex V).2) Indeed the delegations of most of the ECE States in attendance were headed by persons of ministerial rank. Six States were headed by Deputy Prime Ministers or officials of equivalent rank, 21 by Ministers or officials of senior policy-making rank, such as Chairmen of State Councils for the Protection of the Environment, State Secretaries, a Parliamentary Under-Secretary and an Administrator of an Environmental Protection Agency, not counting a number of ministerial officials who served as members of several delegations. A number of officials and experts who had taken part in the preparatory phase were attached to many of the delegations and in this way ensured a measure of continuity in the conference processs. On the other hand, many of the personalities present, especially those of ministerial or similar rank, met for the first time in a region-wide UN forum. That the fullest possible use was made, despite the limited duration of the Meeting, of the opportunities for informal contacts and discussions in an "East-West" setting outside the official meetings is perhaps doubtful.3)

The total attendance exceeded 300 persons, a relatively large number even for a sectoral regional meeting of this special character. The Meeting convened on 13 November 1979 in the forenoon. In conformity with its institutional character the "High-level Meeting within the Framework of the Economic Commission for Europe on the Protection of the Environment" was declared open by the ECE's Executive Secretary. In a brief but pithy address, he said that the presence of the "distinguished Ministers and other delegates" was "eloquent testimony to the shared commitment of... Governments to deal in a concerted manner with the major challenge of protection and improvement of the environment within this region". He continued by saying that *"contemporary technology recognizes neither political nor geographic boundaries".* The harmful effects of this technology "can be controlled only by collective action which transcends historical frontiers... The *historic significance* of this Meeting consists precisely in the shared determination... of the countries here represented *to widen the scope and strengthen the intensity of their co-operation through this high-level discussion and the decisions which will be adopted.* The present Meeting represents a landmark in the co-operative endeavours which have characterized for now more than thirty years... The Final Act... gave solemn expression to the shared commitment of participating States to work together in responding to the environmental challenge. As a result prominent attention has been accorded in the ECE through *initiatives and consultations designed to give effect to collective action at a high-level of policy-making responsibility".* The preparations for the Meeting had "entailed protracted and painstaking work—difficult technical, economic, and legal issues were addressed and examined in detail by experts. Patient and sustained diplomatic effort was required to reconcile divergent interests and approaches. ... These negotiations undertaken... with enthusiasm and goodwill by all parties... were crowned with success". The texts before the Meeting were "of cardinal importance in substance *but the process by which they were reached has contributed to an improved political climate in the region and the world".*[4)]

A message from the Secretary-General of the United Nations was read by the Director-General of the United Nations Office at Geneva. The Secretary-General described the Meeting as "an outstanding example of co-operation among countries with different economic and social systems towards an object which is of benefit directly to their region and potentially to the world as a whole".[5)] The Chairman of the Economic Commission for Europe welcomed the participants. The head of the delegation of Switzerland, Mr. H. Hürlimann, the then Minister for Internal Affairs and President of the Confederation, was the first speaker in the general debate. He conveyed to the delegations a cordial welcome in the name of the Government of the host country. He stressed the need for intensified international co-operation in the domain of the protection of environment, especially from a type of pollution which transcended the boundaries of States. A concerted effort aimed at harmonizing national policies was therefore urgently required.

The distinct character of the High-level Meeting

The status and level of the delegations, the setting of the venue and the opening ceremony were clear indications that while the Meeting was taking place within the framework of the ECE it was, and was meant to be, seen as a type of gathering of countries members of ECE and participants in its activities that was distinct in its character and hence *sui generis.* The exceptional character of the Meeting became more apparent as its work proceeded and the interplay between procedural, administrative, substantive and policy aspects could be more clearly perceived.

When endeavouring to characterize the distinct status and the special features of the Meeting it should always be kept in mind that it was the culmination of a complex multiple conference process, which had begun in the spring of 1976, in the course of which the texts of the documents submitted to the Meeting were elaborated and finalized. However, it would be wrong to consider the High-level Meeting proper as a mere "rubber-stamping" exercise. It was both a political consummation of the totality of the collective efforts of the Governments, a tangible demonstration of the political will of the States despite the many divergencies which continued to divide the Eastern and Western groups and groupings and the lack of adequate political trust between them, and a demonstration of the resolve of the policy makers to ensure due implementation of the decisions which were to be adopted.

On the organizational plane the High-level Meeting followed ECE's rules and established practices and took into account the considerations and tentative suggestions which the Executive Secretary had set out in a report (E/ECE/937). From the summary of the document, made at an earlier stage of this study, it will be seen that, broadly speaking, Governments followed the approach suggested by the Executive Secretary both during the preparatory phase and the High-level Meeting itself. Though both these phases were unique and unprecedented, the Meeting remained firmly anchored in ECE's institutional machinery, its procedures and working practices and backed throughout by the Commission's secretariat. While good care was taken during the Meeting to refrain from referring to or invoking the rules of procedure, there can be no doubt that the Meeting was subject to those rules. The suggestion by the Executive Secretary (made in document E/ECE/937) that he might, if so desired, act *ex officio* as *Executive Secretary of the Meeting,* was not in the event explicitly retained though in fact he acted in that capacity throughout the proceedings.

The established practices of the ECE were followed with regard to the election of office bearers. The arrangement to appoint an "Eastern" and a "Western" rapporteur to draft together the report of the Meeting was also followed.6) As in all other ECE meetings rule 12 concerning the verification of credentials was waived (though they were examined when the Convention was signed).

The way in which the Meeting handled the agenda was somewhat different from the usual procedure whereby meetings of all ECE bodies, including the plenary sessions of Commission, have before them a provisional agenda drawn up by the Executive Secretary in accordance with rules 5 and 6 of the rules of procedure. One of the distinguishing features of the High-level Meeting was that, in view of the political and substantive importance of the Meeting, the Commission itself, in its decision A (XXXIV), had laid down the agenda (a departure from rule 5 of ECE's rules of procedure), and had invited the Executive Secretary to circulate it. (HLM.1/1 and Add. 1). The Meeting adopted that agenda without any discussion whatsoever. It is therefore somewhat academic to speculate whether the Meeting could have altered it. According to the rules this would, of course, have been quite in order, but informal consultations between the Executive Secretary and the Governments through their permanent missions presumably ensured that nothing was done to depart from a carefully devised conference scenario.7)

The report of the High-level Meeting is different both in content and form from the reports of ECE's plenary sessions which (as will be recalled) consist mainly of a fairly extensive summary of the debates under the various agenda items based on carefully balanced and mutually agreed résumés of the statements of delegations. The report of the High-level Meeting is a purely descriptive and sparse document of some three pages in length. This was due to the desire to avoid unnecessary discussion and possible misunderstanding. On the other hand it was understood right from the beginning that, while there would be no summary records, all statements would be reproduced *in extenso* and annexed to the report,[8] so that the document could confine itself to listing, in strict chronological order, the name, rank, country (or international organization) of all those who spoke in the general debate.

Since the High-level Meeting, though taking place within ECE's framework, was a gathering which, so to speak, stood on its own, its report does not contain any provision for being submitted to any other body. The Meeting in fact reported directly to the Governments. As regards the Commission, it was the Executive Secretary whom the Commission, in decision A (XXXIV), had invited to report on the Meeting's outcome to its thirty-fifth session. Furthermore, in view of the high plane of political and policy-making authority at which the Meeting was convened and of its explicit links with the Final Act of the CSCE, the Meeting requested the Executive Secretary to inform directly the follow-up meeting of the CSCE which was scheduled to open on 11 November 1980 at Madrid, of its results "including its report and the texts of the documents adopted".[9]

Another unusual step, presumably intended to emphasize the global relevance of the Meeting and perhaps also thereby to draw the attention of the international community and of the general public to this event, was that the Meeting, in the penultimate paragraph of its report, requested the Executive Secretary, in responding to the message transmitted to it by the Secretary-General of the United Nations, to apprise him of the report of the High-level Meeting "with a view to his appropriately informing the General Assembly" whose thirty-fourth session was then in session in New York.[10] Thus, while being a meeting held not under the auspices, but clearly within the framework of the ECE, it was able to act, because of the high policy-level at which it was held, in quite a distinct, and virtually autonomous manner.

The signing of the Convention

However the High-level Meeting can hardly be described *stricto sensu* as either a negotiating or diplomatic conference of plenipotentiaries. The negotiation process had been fully completed; and Article 14 of the "accepted" draft Convention made it quite clear that the act of signature was to be carried out *not as an integral part* of the High-level Meeting, but "at the United Nations Office at Geneva from 13 to 16 November 1979 *on the occasion* of the High-level Meeting...".[11]

In order to cause the operation of signature to go forward promptly the Meeting, as soon as it had constituted itself, "adopted by acclamation" the three texts before it, i.e. including that of the Convention. This enabled members of delegations, duly authorized for the purpose, to move to an adjoining room where the English, French and Russian texts of the Convention were available for signature and where, after examination by the Principal Legal Officer of the United Nations Office at Geneva of the delegates' *pleins pouvoirs,* the signatures were affixed.[12]

The text of the Convention was annexed to the report of the Meeting together with the texts of the other two decisions.

Some "East-West" aspects

Thanks to the careful preparation which left nothing to chance, the Meeting worked so smoothly and functioned so efficiently that it was able to conclude its proceedings one day earlier than scheduled, i. e. on 15 November 1979. Yet the specifically East-West aspects which reflected the realities of the political climate, were not altogether absent.

First, as is recorded in its report (paragraph 12 and annex V) the Meeting received messages from Heads of State or Government or of the political party in power. All these (five) messages came exclusively from countries of Eastern Europe. Although no undue importance should be attached to this particular "asymmetry", which is in part due to differences in the political traditions and customs of the countries concerned, the feature is nevertheless an indication of the desire of the Eastern countries to stress, to the maximum extent possible, the policy-making status of the High-level Meeting. On the other hand, many Western countries limited themselves to acknowledging through their delegations the exceptional importance of the gathering; yet they were careful not to prejudge their attitude towards similar meetings on policy issues arising in other sectors within ECE's purview by, as it were, overdramatizing the unprecedented nature of the High-level Meeting. On the whole, they preferred a lower-key attitude, possible also because the "détente curve" by then was already exhibiting a downward trend.

While, in keeping with the spirit of region-wide sectoral co-operation, the "general debate" was free of any politically or ideologically divisive matter, the Soviet representative, Mr. V. A. Kirillin, the then Chairman of the State Committee for Science and Technology and Deputy Chairman of the Council of Ministers of the USSR (who took the floor immediately after the statement by the representative of the host country) stated that "since the Convention, as far we know, is going to be signed, along with the States, also by the European Economic Community, it is pertinent to recall the reservation to this effect made by the Soviet delegation at the High-level Meeting and contained in paragraph 108 of its annual report".13) But, having made his statement, Mr. Kirillin, when signing the Convention soon thereafter, did not add a written reservation, a gesture which could be interpreted as conciliatory.

The Minister for the Environment of Ireland, Mr. S. Barrett, who also spoke on behalf of the European Economic Community, said that Article 14 of the Convention "clearly and unambiguously provides for signature by the Community and that this was formally stated by the Community Presidency at the thirty-fourth session of the Economic Commission for Europe".14)

The "general debate"

The nature of what the report described as a "general debate on the environmental situation in the ECE region, in particular long-range transboundary air pollution and low- and non-waste technology and re-utilization and recycling of wastes, and also other environmental problems dealt with in the ECE, especially transboundary water pollution" ("a question to which", as the report of the Meeting added, "several delegations attached considerable importance"), calls for some comment.

Taken in its lexical definition the term "debate" in this particular case is a misnomer, for there was no "debating" or "arguing" in the strict sense of the word. The debate consisted of a series of statements by the heads of delegations and by senior representatives of international bodies. Since delegations adhered, on the whole, to the suggested duration of 15 minutes per statement it proved possible to accommodate the 41 speeches that were delivered and yet to conclude the proceedings ahead of the scheduled closing date.

In normal conference practice in the UN and many other international organizations, the "general debate" or "discussion" frequently consists of a recital of prepared speeches with occasional exchanges of views. But the essential difference between the "general debate" of the customary type and that which took place at High-level Meeting was, of course, that in the latter case the occasion was not used to make formal proposals for adoption at the Meeting since all the decisions had already been adopted. Nevertheless, the nature of the gathering and the status of the participants made the debate *a unique occasion for an authoritative review of the state of environment in the ECE region,* of the policies to protect it and of the problems which required international co-operation. Although no proposals were tabled, a number of important suggestions for further work in the field of environmental protection were put forward. Therefore the decision of the Meeting to annex (as mentioned earlier) the full texts of these statements to the report was a felicitous one not only for political but also for substantive reasons.

While there was no veritable debate, and no queries were posed, the participants listened with the greatest of attention, for such a comprehensive overview of the environmental situation in a key region as a whole, at so senior a level, had never been presented before.

A brief digest of the general debate

The full texts of the statements (a total of 133 closely typed pages in the report) are well worth careful perusal, especially regarding the more general policy pronouncements on the role, significance and results of the Meeting, the views of the high-level representatives on other environmental problems and on prospects for further co-operation.

(*a*) *The importance of the Meeting*

Some of the points worth noting include an acknowledgement of the political and historic importance of the event, the first of its kind to be held within the framework of ECE. Not only was it because of the intensity, purposefulness and satisfactory outcome of the preparatory work that the Meeting could be held and had produced significant results, but also because it was the fruit of intergovernmental endeavours extending over more than ten years to create a framework for governmental efforts to protect the environment, which included, at a global level, the Declaration of the United Nations Conference on Human Environment of 1972. The High-level Meeting was directly linked to the Final Act of the CSCE, more particularly its chapter which dealt with environment. The problem of protecting the environment had both regional and global dimensions and could not be bounded by political and ideological frontiers. The High-level Meeting was a striking example of East-West co-operation as envisaged in the Final Act. The Convention was proof that the Final Act had led to concrete action. The High-level Meeting *could* thus become the starting point for a dynamic phase of co-operation on the protection of the environment in the ECE region.

Attention was drawn to the long and complex process of preparing for the

Meeting. It was considered that the documents that had been adopted amply justified the efforts. As regards the results of the Meeting, the adoption of the Convention was considered by all an act of great significance for the progressive establishment of effective intergovernmental co-operation. The choice of the subject for international co-operation by means of a legal document was explained by the fact that long-range transboundary air pollution was one of the most serious environmental problems facing the region at present. Because of the alarming increase in acidic precipitation affecting large parts of Europe and North America considerable damage was being caused, especially in certain countries.

The adoption of the related Resolution was considered as a clear indication of the readiness of all parties to engage in immediate action. While making the ECE a centre for co-operation on problems of long-range transboundary air pollution, it was felt that existing international activities, especially on the "Co-operative programme for the monitoring and evaluation of the long-range transmission of air pollutants in Europe", as was indeed provided for in the Convention, should also be drawn upon.

A number of selected points made during the discussion shed light on the innovative character of the decisions adopted.

(*b*) *The Convention and the Resolution*

(i) These two instruments contain guidelines that could be used by industrially developed countries throughout the world.

(ii) By signing the Convention ECE Governments had manifested a clear political will to commit themselves to permanent co-operation for protecting the environment against the adverse effects of the long-range transport of air pollutants.

(iii) The adoption of the instrument showed that, even in a difficult state of the world economy and in the face of an unresolved problem of energy supply, progress in environmental protection was possible.

(iv) *Action under the Convention to deal with a potentially hazardous development should not be postponed until all essential causes and effects had been clarified at the research level.*

(v) In some cases new national legislation might be required to enable contracting parties to fulfil their obligations under the Convention.

(vi) In the highly industrialized ECE region acid rain had created problems which could not be solved without international co-operation.

(vii) Long-range transport of air pollutants and acid rain constituted a challenge without historical precedent which required that international co-operation must be carried to a qualitatively new plane. Valid solutions to problems such as acid rain must combine multilateral actions with measures taken by individual nations.15)

(viii) Several delegations drew attention to the need for increased secretariat resources to permit the effective implementation of the decisions taken, more especially of the Convention, and the report of the Meeting (in paragraph 13) acknowledged, somewhat cautiously, that "examination by the Senior Advisers to ECE Governments on Environmental Problems would be required of the extent of the work-load and of the resources necessary to enable the secretariat to carry out this additional work effectively".

(c) The Declaration on Low- and Non-Waste Technology and Re-utilization and Recycling of Wastes

(i) The Declaration was welcomed as an important step to further, at the international level, the concept of a preventive policy of environmental protection.

(ii) The Declaration constituted a first attempt to reach broad intergovernmental agreement on principles for the future-oriented promotion of technology that would respond to the joint objectives of rational use of energy and resources *and* the protection of the environment.

(ii) Industrialized ECE member countries had certain responsibilities vis-à-vis the developing countries. Consideration should therefore be given to *measures which would widen the opportunities for access to technology that would reconcile the needs both of economic development and of environmental protection.* The Declaration was therefore a document of great practical interest not only to ECE Governments but also globally.

(iv) The introduction of low- and non-waste technology would have to be promoted by appropriate legislation and administrative rules.

(d) Other environmental problems

The general debate afforded a most welcome opportunity to governmental decision-makers to discuss other major aspects and problem areas of environmental protection, at a technical but, more importantly also, at a policy-level. Attention was focused on matters which, in the view of some countries, should have been included in the agenda of the High-level Meeting, since to them these appeared to call for action at policy-level. These included mainly water pollution, protection of native flora and fauna and their habitats, and control of toxic substances and toxic wastes.

These questions had, of course, been subjects of special examination in the course of the preparatory phase. Several Government delegates representing a cross-section of Eastern and Western countries reiterated their considered opinion that both subject areas—the protection of native flora and fauna and the control of toxic substances and wastes—required urgent international measures and lent themselves to the negotiation of a declaration of principles and internationally agreed measures to protect the environment. However, no specific proposal was made that a further high-level meeting should be called to deal with these two subjects, although the view was expressed that there were environmental problems which deserved consideration at a high governmental level "at similar European Meetings". As will be seen in chapter VIII action was taken subsequently by the Commission on these two subjects through the SAEP.

On water pollution there was considerable discussion (as there had been during the preparatory stage). Many participants thought that the problem of water pollution in the ECE region was of virtually equal importance to that of air pollution and should therefore be given a prominent place in any negotiations on future co-operative action. Attention was drawn to the fact that, under item 4 of the agenda of the Meeting, water pollution, including transboundary water pollution, was singled out amongst the other environmental problems dealt with in the ECE. It was generally recognized that measures to prevent further deterioration of water resources in the ECE region were of prime concern. Reference was made to the guidelines contained in the CSCE Final Act for co-operation on water pollution control and fresh water utilization, and to the recommendation of the United Nations Water Conference at Mar del Plata in 1977 that ECE should give high priority to the *strengthening of international water law* in its programme of work. In this connection, comments centred on the efforts of the ECE Committee on Water Problems to update the ECE "Declaration of Policy on the Prevention and Control of Water Pollutants, including Transboundary Water Pollution". Several suggestions were made for its amendment. A notable suggestion, made in the statements delivered by one Eastern country and one Western country, was to the effect that early completion of the new draft ECE Declaration on Water could, together with existing and future bilateral and multilateral agreements, serve as a basis for *a possible European convention on water quality protection.*[16)]

(*e*) *Prospects for further co-operation in the field of environment*

Views on this topic expressed by the representatives at the Meeting are particularly important in the context of the present study for they are indications as to how Governments envisaged the crucial and crowning stage of the conference process under study, i.e. that of implementation and follow-up; and also whether or not an intergovernmental meeting of a new type by reason of the high-level of representation and the importance of its results, held within ECE's framework, was likely to be repeated in some similar fashion and thus presage a gradual restructuring and development of East-West conference diplomacy in the direction of intensified inter-systems co-operative interaction, as envisaged in the Helsinki Final Act.

There was a strong impression that the results of the High-level Meeting were believed by all participants to be a proper basis for extended co-operation on problems related to the protection of the environment in the ECE region. Although the negotiations during the preparatory stage had sometimes been difficult, the procedure itself was considered exemplary; *it was inferred that the Meeting could serve as a model for further undertakings of a similar nature, not only in ECE but also in other regions.* It was even suggested that the High-level Meeting proved that co-operative action could be mobilized when common problems of vital importance were at stake.

Another important, even though perhaps elementary observation made during the general debate was that comprehensive and complex problems (like those of environment) had to be tackled at the national and international levels *simultaneously* and in co-ordinated fashion. Furthermore it was recognized that *the adoption of instruments containing internationally agreed principles and commitments had to be continued to bring about effective action.* The decisions taken at the Meeting were proof of a collective political will to meet the challenge of securing by concrete action a viable environment for coming generations. In the course of the preparatory work for the High-level Meeting, objectives and guidelines for co-operation in some other vital areas of the protection of the environment had begun to emerge. When important decisions—in the form of declarations, principles or conventions—could be presented for such areas, there would be scope for new, high-level meetings within the framework of ECE on the protection of the environment. Member states had made a decisive effort to solve joint problems through concerted action; and this was the very essence of détente. The Meeting had raised the whole work of ECE to a higher plane. It had made a signal contribution to the CSCE meeting at Madrid. The instruments adopted by the High-level Meeting constituted the first steps in a new direction, widening and deepening the co-operation between ECE countries, irrespective of their economic and social systems. The environment was an area where the interests of East and West coincided and where the interdependencies of the world became clear. The co-operative efforts should be continued along the lines of the High-level Meeting.

(f) Other features of the High-level Meeting

Only a brief word needs to be added for the sake of completeness on two aspects, i. e. the extent of public interest taken in the Meeting, and on its financial implications.

As to the first, the Executive Secretary, in his report on the modalities of organizing a high-level meeting (E/ECE/937), had stated that "the importance of the meeting and the interest it may be expected to arouse both within specialist groups and among the general public would seem to justify special efforts".[17]

The High-level Meeting did evoke some interest in the world press and in other forms of public media. Its proceedings were followed by specialists but, by and large, despite the considerable efforts of the United Nations Information Service on that occasion, the Meeting did not receive the attention it deserved, thus sharing the fate of many another noteworthy UN events. For a number of reasons, the UN's success stories, of which the High-level Meeting was an indubitable example, do not seen to make the headlines. Although increasingly frequent articles dealing with the danger of acid precipitation and the growing awareness of that danger, as well as a few references to the Convention, appeared subsequently, seldom was it pointed out that the instrument had been negotiated and signed within the UN/ECE framework. In fact, it was only when the Governments became aware of the full extent of the damage done by acid precipitation that public awareness of the importance of international co-operation through measures such as those taken at the High-level Meeting began to grow.

As regards the budgetary side of the Meeting reference should be made to a prosaic but potentially somewhat worrisome paragraph in the report of the Meeting. As already pointed out, thanks to careful planning and hard work on the part of governmental officials and the secretariat, the assistance rendered by UN bodies and international organizations, as well as the support readily given at all times by the competent administrative services of the United Nations Office at Geneva, it proved possible to mount the entire complex and lengthy operation without requesting additional budgetary means. But what of the costs of the additional work generated by the results of the Meeting to which paragraph 13 addresses itself? Admittedly, in the Resolution on Long-range transboundary air pollution, the Signatory States (as distinct from the Commission) agreed "that the necessary authority should be given to the Economic Commission for Europe and to its Executive Secretary to provide for a sufficient secretariat and, in the framework of the existing budgetary structure, for the appropriate financial means". But it was clear that at some stage more specific and unequivocal answers to this question would have to be found.

Such then, in broad outline, is the account of an extraordinary, productive and promising UN-sponsored regional conference, of its organizational features, of the views expressed and of the results obtained.

The Meeting ended on a hopeful note but while expectations regarding swift and effective follow-up action arising from the decisions taken were borne out by events, the deterioration in political relations between the East and West soon put a brake on developments in other sectors which some Governments had expected, as an indirect result of the Meeting.

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This chapter could have ended at this stage, but the author felt that he should attempt, in an "Additional Note" to the present chapter, to look more closely at the main features, and reflect upon the significance of the decisions that were adopted by the High-level Meeting, before passing on to an examination of the process of follow-up and implementation.

NOTES AND REFERENCES

CHAPTER VII

1. The wording article 8 of the terms of reference of ECE is as follows: "8. The Commission may admit in a consultative capacity European nations not Members of the United Nations, and shall determine the conditions in which they may participate in its work, including the question of voting rights in the subsidiary bodies of the Commission." The wording of article 11 is as follows: "The Commission shall invite any Member of the United Nations not a member of the Commission to participate in a consultative capacity in its consideration of any particular concern to that non-member." The few countries which participate under article 8 enjoy virtual equality with the member States.
2. See ECE/HLM.1/2, paras. 2-6 for details.
3. Some such contacts did take place in various forms, but the author's impression is that more might have been done in this regard.
4. See press release ECE/GEN/27-ECE/ENV/12 (HLM). Italics added. As will be seen a special series for press releases covering the Meeting was established.
5. See press release ECE/GEN/24-ECE/ENV/9 (HLM).
6. "The meeting unanimously elected Mr. O. Johansson (Sweden) chairman and Mr. B. F. Straub (Hungary) vice-chairman. Mr. A. Czarkowski (Poland) and Mr. I. de Jong (Netherlands) were appointed rapporteurs." (ECE/HLM.1/2, para. 9).
7. As proposed in the order of business drawn up by the secretariat (ECE/HLM. 1/1/Add.1) item 4 (Formal adoption of the final texts) was disposed of *before item 3* (General debate).
8. Though this was contrary to normal practice, the texts of the statements were reproduced verbatim, but only in the language in which they were delivered. (The exception was the statement by the delegate of the USSR which was reproduced in its English version, supplied by the delegation). This arrangement yielded significant economies. The texts of messages received during the Meeting appeared (in the order in which they were read to the Meeting) in the three working languages of the Commission, i. e. in English, French and Russian. The texts of the three decisions were obviously also reproduced in these languages. This procedure made it possible to issue one single trilingual report of the High-level Meeting in two volumes (ECE/HLM.1/2 and Add.1). In this connection it should be reiterated that the Executive Secretary had not requested a special budget for holding the High-level Meeting.
9. This was subsequently done by the Executive Secretary through a report (E/ECE/1021) entitled "Review of ECE Activities Pertaining to the Final Act of Conference on Security and Co-operation in Europe" prepared by him for the information of the Madrid meeting. He also referred to the High-level Meeting in his oral statement made at the plenary session of the Madrid meeting on 18 November 1980.
10. The General Assembly was so informed on 13 December 1979. As a consequence, a preambular paragraph was included in General Assembly resolution 34/188 on International co-operation in the field of environment as follows: "*Noting* the results of the High-level Meeting within the Framework of the Economic Commission for Europe on the Protection of the Environment held in Geneva from 13 to 15 November 1979".
11. Italics added.
12. All those authorized to sign—altogether 34 States, including three States attending the Meeting under article 8 of ECE's terms of reference (see note 1) as well as one regional economic integration organization (EEC)—did so on the opening date (13 November 1979). Cyprus and Malta did not sign. Albania, which took no part in any activity stemming from the Final Act of the CSCE, did not participate in the High-level Meeting.
13. ECE/HLM.1/2/Add. 1.
14. *Ibid.*
15. The observations made by the high-level representatives on the principal features of the decisions and on the major common problems of environmental protection in the region (and beyond) will, of course, be borne in mind in this author's own attempt to analyse the results and assess the over-all significance of the Meeting.
16. For a brief history of the work leading up to the ECE Declaration on Water Pollution Control, see the article on this subject published in the *Economic Bulletin for Europe,* vol. 34, No. 1 (March 1982), pp. 145-154.
17. E/ECE/937, para. 25. See also para. 26.

AN ADDITIONAL NOTE TO CHAPTER VII

THE SIGNIFICANCE OF THE DECISIONS OF THE HIGH-LEVEL MEETING

The nature of the "package"

The Convention and the accompanying Resolution as well as the Declaration that were adopted "by acclamation" deal with two distinct aspects of the protection of the environment, i.e. long-range transboundary air pollution, and low- and non-waste technology and re-utilization and recycling of wastes. In the final analysis both are interrelated. For it stands to reason that in the measure that the introduction of effective and less costly low- and non-waste technology proceeds, it should be easier and cheaper to abate air pollution, including its long-range transboundary form which is assuming such alarming proportions. But while the inculcation of low- and non-waste technology is still in its infancy, partly because it is still considered to be too costly and presents many unresolved problems at the R and D stage, long-range transboundary air pollution is increasingly being recognized not only as a grave, but also as a highly urgent and pressing concern requiring close and systematic co-operation at international level. Thus, from the point of view of follow-up and implementation, despite the strong substantive interconnections between the two subject areas, differences in time-frames have to be borne in mind. The control and reduction of emissions into the atmosphere particularly of certain substances, brooks no delay, i.e. calls for speedy action and a truly operational approach, reinforced by a measure of legal and political commitment. Therefore, while an enumeration of the aims and purposes of governmental policies, programmes and action in the form of a detailed, yet legally non-binding Declaration appears to be an appropriate form for embodying decisions at a high level with respect to the development and application of low- and non-waste technology, the final agreement to adopt a *binding* text on transboundary pollution is of crucial importance and makes the Convention, the first of its kind, undoubtedly the centre-piece of the conference process so far examined.

The linkage between the Convention and the related Resolution

To a non-lawyer like the present author the most intriguing and potentially significant feature of the Convention was, from the start, that an innovative but practical compromise solution was devised which made it possible not only to adopt an instrument which, though general in content, was legally binding, but also to ensure the provisional implementation of that instrument. The manner by which this compromise could be achieved has already been fully described.*

Under present circumstances the principal method whereby sovereign States voluntarily decide to cede or limit their sovereignty in carefully defined and specified fields is by accepting and, as necessary, incorporating the relevant provisions of internationally negotiated and duly adopted instruments which pertain to the law of treaties, as regulated by the Vienna Convention on the Law of Treaties (UN/DOC.A/CONF. 39/27), into their domestic legislation and administrative practice. Not only are lengthy negotiations usually required to draft even a fairly straightforward convention but it is mainly the time-consuming formalities at national level which require completion before the instrument can enter into force, that have frequently led to delays in ratification so inordinate as to render some conventions obsolete by the time they become international treaty-law.

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* It will be seen from the selected bibliography that a fair amount has been written by legal specialists on this subject. This author has deliberately refrained from reading this material, for he felt that an "unencumbered" analysis of the Convention by a "non-legal" international official might be of some interest.

Although the Vienna Convention does provide (in its Article 25) for the possibility of provisional application of a treaty, it appears that resort to this rule is not frequent, presumably because of reluctance to assume commitments until the usual constitutional requirements of the Signatory State are met. In the case under consideration, there were two reasons which made it possible to agree on a pragmatic way whereby the provisions of the Convention could be set into motion pending its formal entry into force. First, there was the realization that the situation was becoming so serious, especially in some countries and parts of the ECE region, that prompt measures at least to abate air pollution caused by sulphur compounds could not be delayed any further. Secondly, the Convention, frequently described as a "framework" Convention, consisted mainly of rather general legal obligations and did not appear to necessitate immediate changes in domestic legislation. Besides, what the Signatory States decided by adopting the Resolution on long-range transboundary air pollution which accompanied the Convention, was not, *stricto sensu,* to proceed with its immediate *provisional application,* but "to initiate as soon as possible and on an interim basis, its *provisional implementation* and to undertake to carry out the obligations arising from the Convention to the maximum extent possible pending its entry into force".

It is clear, even to a non-jurist, that though the Resolution, in terms of jurisprudence, cannot, by definition, meet the requirements of Article 25.1 (6) of the Vienna Convention,1) it is somewhat exceptional. First of all, it is couched in categorical language, using the imperative "shall" on repeated occasions. The Resolution is also quite different from the usual kind of resolution adopted by UN bodies, including the ECE, where the entity which "resolves" is the UN body in question representing the collectivity of the Governments of the States in question, i.e. for instance "the General Assembly", "the Economic Commission for Europe", etc. But *the Resolution on Long-range transboundary air pollution emanates from "the Signatories to the Convention",*2) so that it does not appear to have any status or meaning *except in conjunction with that Convention.* Therefore, it can reasonably be argued that the Resolution, though non-binding, can be regarded as a text organically linked to the Convention.

In addition to the decision concerning the initiation of the provisional implementation of the Convention, and the agreement on giving priority treatment to the question of the abatement of air pollution by sulphur compounds, the Resolution contained a further (political) commitment on the part of the Signatory States (which also might have been difficult to have included in the Convention itself) namely to "seek to bring closer together their policies and strategies for combating air pollution".3)

The importance and "centrality" of this commitment to co-ordinate and harmonize national actions in a major sector cannot be overstressed, especially in an East-West context. It endows the Resolution with the quality of a politically "binding" guide-line. If this interpretation is correct, the adoption of what has earlier been termed a dual legal-political or politico-legal decision, does seem to represent an innovative two-tier model of decision-making in "East-West" and indeed in UN conference diplomacy generally, which, if desired, can help ensure a prompt implementation of a binding legal instrument regulating co-operative interaction between the States concerned.

The scope and structure of the Convention: an overview

The Convention has been described by some as rather "light-weight". Indeed, when this author read it, somewhat hurriedly, for the first time, he gained the same impression. No specific quantified and time-bound commitments were involved; reference to action on certain measures deemed to be necessary was not expressed in mandatory treaty-language, but was couched in such terms as "agreement to emphasize their desirability". It was expressly stated that "the present Convention does not contain a rule on State liability as to damage".[4] As could be expected there were no binding provisions for the settlement of disputes because of the hitherto general reluctance of Governments to assume legal commitments in this regard. Yet, more careful reading leads to the conclusion that, given the unassuming though informal description of the instrument as being no more than a "framework" convention, the document is noteworthy for its construction, its practicality, the operational orientation of its implementation, and the possibility of developing the content of the Convention, e. g. through amendments and protocols. To begin with, it should be noted that the Convention (issued as a separate document (E/ECE/1010), under an ECE/UN imprint), clearly marks it as a UN-negotiated Convention. As pointed out in the general debate, it is the first Convention dealing with long-range transboundary air pollution. Most of the points that follow were mentioned in the general debate, but presenting them in the form of a brief summary of the Convention's principal contents may be useful.

As the *preambular part* clearly indicates, the aims and purposes of the Convention stem from those of the United Nations Charter and more particularly from the terms of reference of ECE. The Convention is explicitly linked to the pertinent provision contained in the chapter of the Final Act of the CSCE dealing with environment and to the contribution which the ECE is expected to make to its implementation. The reference in a legal instrument to the "pertinent provisions" of the legally non-binding Declaration of the United Nations Conference on the Human Environment, and in particular to its Principle 21, can be regarded as enhancing the authority of the Declaration and one of the central principles enunciated therein. The Parties to the Convention affirm their willingness "to reinforce active international co-operation to develop *appropriate national policies and by means of exchange of information, consultation, research and monitoring to co-ordinate national action* for combating air pollution...".

The *corpus* of the Convention contains the following major provisions: for the first time both "air pollution" and "long-range transboundary air pollution" have been defined for purposes of a Convention (Article 1). Under the dispositions dealing with "Fundamental Principles", the overriding determination of the Contracting Parties "to protect man and his environment by gradual abatement and prevention against air pollution, including long-range transboundary air pollution" (Article 2) is to be implemented by a series of interlocking co-operative measures, i.e. exchanges of information,[5] consultations, research and monitoring, and the development "without undue delay" of "policies and strategies which shall serve as a means of combating the discharge of air pollutants..." (Article 3). Subsequent articles deal with the procedures for an exchange of information and a review of national policies aimed at combating air pollution (Articles 4 and 8); Article 5 provides for a *consultation procedure to be held "upon request" between Contracting Parties* affected by or exposed to a significant risk of long-range transboundary pollution and Contracting Parties within which a significant contribution to this type of air pollution originated.[6] Under Article 6 each Contracting Party undertakes to develop the best air quality management policies, strategies and systems. A direct link between the Convention and the Declaration is established whereby control measures should, *inter alia,* make use of low- and non-waste technology. Article 7 provides for the initiation and co-operation in the conduct of research into and/or development of six specific subject matters. In Article 9 the Contracting Parties agree to emphasize the desirability of their joining and fully implementing an already existing co-operative, inter-agency and intergovernmental operational programme for the monitoring and evaluation of the long-range transmission of air pollutants in Europe (EMEP).[7] Articles 10 and 11 lay down detailed arrangements for implementing the Convention. The Convention provides for a special mechanism, *the Executive Body of the Convention,* to consist of representatives of the Contracting Parties, to function "within the framework" of the SAEP, to meet annually in order to carry out a number of carefully defined tasks, including the review and "development" (a noteworthy concept) of the Convention; and to be furnished with certain "secretariat functions" by the Executive Secretary of the ECE.

The way in which the Executive Body was set up, how it came to function "within the framework" of the Senior Advisers, and the procedural characteristics and working practices it adopted, will be dealt with later. In the present context the author wants to stress the UN-linked institutionalized nature of the mechanism for implementing the Convention. The Executive Body, as noted, is to meet annually thereby ensuring the continuing involvement of the Contracting Parties in the implementation of its programme of work. Article 12 provides that an amendment to the Convention shall be adopted by *consensus* of the representatives of the Contracting Parties. Article 13 specifies that in case of disputes between two or more Contracting Parties, they "shall seek a solution by negotiation or by any other method of dispute settlement acceptable to the parties to the dispute". Article 14 contains the provision for signature by "regional economic integration organizations", as well as by States having consultative status with ECE (i.e. Holy See, Liechtenstein and San Marino).

This summary of the main provisions and features of the Convention and of the accompanying Resolution was intended to show that the instrument is a meaningful document which fully justifies the considerable effort put into its preparation, and that it contains characteristics which may be regarded as "typical" in the sense that they are relevant for the preparation of further "framework" conventions under the auspices of ECE and of other UN bodies, dealing with other important sectoral matters of common concern. Further reference to this "model" function of the Convention will be made in the conclusions of this study. A judgement on the Convention's effectiveness can only be made on the basis of the results of its implementation. As will be seen in the next chapter, the interim phase ended, when the Convention entered into force on 16 March 1983, so that the Executive Secretary of ECE was able to convene the first session of the Executive Body at the beginning of June of that year.

The Declaration: some general observations

Although the Convention and its "political back-up" Resolution constitute the main piece of the "package" of the Meeting's decisions, the second part of the package, the Declaration on Low- and Non-Waste Technology, also merits due attention. The choice of this theme as a second (and, in fact, secondary) item, which by common consent met the criteria qualifying it for consideration at the High-level Meeting had been, it is felt, at least to some extent fortuitous. Strong arguments could be adduced for the choice of other subjects in the environmental field, possibly of much greater importance and immediacy. There is no "law" that ensures optimum logic in compromises arrived at in conference diplomacy, especially of its "East-West" variety. But, considering the circumstances, the choice of the two topics was a sensible one. Substantively, the two aspects--air pollution and low-waste technology—were interrelated. Though the Declaration dealt with a matter not yet sufficiently searched and somewhat delicate, especially for countries with market economies because of the influence of the introduction of such technologies on competitiveness, it was pretty clear even to a layman that the importance of environment-friendly technology was likely to grow with time. From the point of view of the evolution and innovation of UN-related conference diplomacy, the "institutional diversity" of the package could be considered an apposite mixture: a full-fledged legal instrument linked with a formally non-binding resolution (yet politically quite firmly and unambiguously committing), combined with a Declaration intended to give an impetus to a long-term programme of international co-operation on a subject not receiving sufficient attention on a region-wide plane. Taken together the package represented a balanced and complementary programme of action.

Structure of the Declaration and institutional arrangements for follow-up work

The "philosophy" underlying the Declaration's *preambular part* is almost identical with that of the analogous part of the Convention, such as the significance of ECE's activities in the field of environmental protection, the need for strengthening inter-State co-operation in that field in accordance with the chapter of the CSCE Final Act dealing with environment, and the relevance of the Stockholm Declaration of 1972. It also contains the *rationale* for the need of international co-operation in the development of a new type of technology which would act as a powerful aid in providing the most rational use of natural resources and energy, and reduce or eliminate waste products which otherwise pollute the environment. Further, the Declaration points to the need for policy decisions regarding the introduction of low- and non-waste technology to take into account the implications not only of the environmental, but also of the economic and social factors.

The preamble emphasizes that a programme for developing environmentally sound technologies would be of interest and value to other regions of the world—a consideration which was reflected in the general debate at the High-level Meeting.

The *operative part* of the text consists of a Declaration of Intent to protect man and his environment and to use resources rationally by promoting low-

and non-waste technology and the re-utilization and recycling of wastes. The Declaration then sets out a number of ways and means for the application of technologies in question by *"national and international action"* i.e. by strategies covering research and development, education, socio-economic incentives, exchange of information, and transfer of technology.

There then follow three categories of interconnected, matching and interacting recommendations. *The first set of recommendations concerns national actions* through:

(a) Promotion of research and development activities along defined lines;[8)]

(b) Incentives for low- and non-waste technology and re-utilization and recycling of wastes;

(c) Inter-industry technology transfer and industrial interaction; and

(d) The inclusion of the concept of such technology in educational programmes at all levels.

The second set of recommendations concerns international co-operative activities within the framework of ECE, including projects which can only be carried out in an international setting, such as international co-operative pilot projects and other joint research; elaboration of unified classification of wastes; further development of ongoing work on the completion of a compendium of low- and non-waste technology with a view to setting-up an international data bank for information on low- and non-waste technology, while fully respecting the need to protect proprietary information; encouragement of transfer of technology; exchange of information on national experience, and organization of activities concerning international waste exchanges.

The third set of recommendations concerns the setting up of the necessary institutional machinery in the form of a working party of national experts on the subject, "under the authority" of SAEP, to exchange information on the items enumerated under the first and second sets of recommendations, to consider the publication of a scientific and technical review on the subject of low- and non-waste technology; and to make recommendations to the SAEP on further suitable activities.

The Declaration thus sets out the reasons for the need for co-operation regarding a complex and evolving factor of environmental protection which may, in the long run, have far-reaching economic and social repercussions; and it establishes frameworks and guidelines for complementary and national and international action and, in this way, endeavours to bring about a measure of consistency between national and international policies in this field. Last, but not least, the recommendations provide for the requisite institutional machinery at minimal cost, to function within the existing framework of ECE on the basis of a precise mandate.

Although this way of structuring declarations resulting from UN conference diplomacy is not new or pathbreaking, this particular Declaration represents a useful model which could be used to articulate the intent of Governments to regulate tentative systems of national action and international co-operation in other relatively unexplored but potentially important areas. But the most notable feature of the Declaration is, of course, that it was adopted at a high political level so as to ensure that its dispositions would form part of the environmental and technological policies of the States concerned. Whether, in fact, the Declaration had such an impact on all the countries concerned is another matter.

NOTES AND REFERENCES

AN ADDITIONAL NOTE TO CHAPTER VII

1. Article 25 lays down, *inter alia,* that "a treaty is applied provisionally pending its entry into force if (a) the treaty itself so provides; or (b) the negotiating States have in some other manner so agreed".
2. However, a pedantic bureaucrat (like the present author) cannot help but point to the fact that the Resolution was "adopted by acclamation" by the High-level Meeting before the representatives of the States concerned participating in the Meeting had actually signed the Convention, i.e. before they had become "Signatories".
3. The author must confess that it was only at a fairly advanced stage of this study that he recalled that the fundamental policy concepts embodied in the Resolution were taken, almost literally, from the text on Co-operation in the Field of the Environment in the Helsinki Final Act. Under the heading "Aims of Co-operation" the participating States agreed, *inter alia, "to take the necessary measures to bring environmental policies closer together, and where appropriate and possible, to harmonize them". (Final Act, op. cit.,* p. 102. Italics added.) No such stipulation was explicitly made with regard to the other fields dealt with in the Final Act. See also the last part of this study Recapitulation and Final Remarks, p. 192.
4. See footnote 1 to Article 8 (f) the Convention.
5. The presence of a legal framework strengthens the effectiveness of exchanges of information as a method of international co-operation. In this way such exchanges become more purposeful, regulated and effective. Information is exchanged not just for its own sake but with a view to enabling the Contracting Parties to carry out a harmonization of "policies and strategies" on the basis of a regular and comparable supply of relevant data in accordance with agreed guidelines. Similar considerations apply to the provisions contained in Article 8.
6. The Convention does not specify the procedures in this regard. The section on Environment in the Final Act (*op. cit.* p. 105) includes, as one of the forms and methods of co-operation, a provision on consultations in various aspects of environmental protection, as agreed upon among the countries concerned especially in connection with problems which could have international consequences. The consultation mechanism is of interest as a practice which can strengthen conference diplomacy.
7. Because of the political configuration of the ECE region it should be noted that the Convention, in Article 9 (d), stresses "the desirability of establishing a framework for a co-operative environmental monitoring programme, based on and taking into account present and future national, subregional, regional and other international programmes". A separate monitoring system is in operation in North America. See also Final Act, p. 105.
8. It should be noted that when pointing to the need to promote R and D in the development of methods for the assessment of economic, social and environmental impacts of low- and non-waste technology and re-utilization and recycling of wastes, the Declaration exhibits awareness of the East-West context of the High-level Meeting when it states that such methods of assessment should be *"applicable in countries with different economic and social systems"* (see text of Declaration, 4 (a), italics added).

CHAPTER VIII

FOLLOW-UP AND IMPLEMENTATION

First steps

The proof of the pudding is in the eating. The success of a Convention resides in its ratification and entry into force. Unfortunately the path of international co-operation is strewn with almost countless recommendations, resolutions, decisions, declarations, appeals, yes, even legally binding treaties which have been at best only partially implemented or at worst all but completely ignored or let fall into oblivion. Many Conventions that were signed never entered into force; or did so after such protracted delays that meanwhile they had become almost obsolete.

Any study of a distinct process of conference diplomacy must therefore look carefully not only into the dispositions for follow-up and implementation contained in the multilateral decisions, of whatever form, reached through conference diplomacy, but more importantly establish as accurately as possible what actually happened in this regard in terms of governmental and intergovernmental action and then, in due course, assess the extent of the final phase, the crowning as it were, of a process of conference diplomacy, its *"mise-en-œuvre"*.

As soon as the high-level representatives had departed from Geneva and the original text of the Convention had been deposited with the Secretary-General of the United Nations, the Executive Secretary and the team of officials assigned to the work arising from the High-level Meeting set to work to ensure a prompt follow-up to, and implementation of, its results. Once again, the advantages of the Meeting having been held within the organizational, administrative and substantive framework of a UN organization functioning on a continuing basis, having an intergovernmental body with authority and expertise in environmental matters, and served by an experienced and dynamic secretariat stand out clearly. Obviously there was no question of waiting until the thirty-fifth session of the Commission, scheduled to convene on 15 April 1980, before commencing the work of implementation. The report of the High-level Meeting was addressed directly to the Governments. Its decisions specified that they were to be carried forward "within the framework" or "under the authority" of the Senior Advisers to ECE Governments on Environmental Problems whose eighth session was scheduled to be held from 18 to 22 February 1980, i.e. approximately two months after the High-level Meeting.

Barely two weeks after the closure of the High-level Meeting, the secretariat circulated the provisional agenda for that session of the SAEP (ECE/ENV/32). Item 4 was worded "Follow-up to the High-level Meeting within the Framework of the ECE on the Protection of the Environment". In the notes by the secretariat under this item it was stated that, in order to assist the Senior Advisers to consider the results of the High-level Meeting and their implications with respect to the SAEP's activities, a *draft plan of action* would be prepared by the secretariat (ENV/R.117). This document, entitled "Draft Plan of Action for the Follow-up of the High-level Meeting within the Framework of the ECE on the Protection of the Environment, Note by the Executive Secretary" was dated 11 January 1980. In it the Executive Secretary did not limit himself to a systematic and detailed presentation of the tasks which arose from the decisions of the High-level Meeting and the measures that the Senior Advisers might wish to take, but he also put forward suggestions "for a plan of action covering all these activities".[1] On the major theme, i.e. long-range transboundary air pollution, the secretariat document focused on the decision of the Signatories of the Convention contained in the related Resolution "to initiate, as soon as possible, and on an interim basis, the provisional implementation of the Convention..." Since the Resolution did not spell out an explicit procedure to be followed in this regard, the suggestions of the Executive Secretary on a practical arrangement for provisional implementation proved to be of crucial importance in assisting and indeed guiding the Senior Advisers towards agreement on the modalities for an expeditious initiation of this process in a straightforward manner. The suggestions were convincing in their simplicity, logic and common sense. They commended themselves to the Senior Advisers; thereby superfluous discussion was avoided.

The Executive Secretary's proposals for follow-up

The present study lays particular stress on the way in which well-conducted conference diplomacy can help Governments to implement action-oriented decisions without delay and in an effective manner through appropriate institutional machinery.

Since it is precisely the manner in which the initial phase of implementation is handled that frequently proves decisive in its further development, quotation in full is given of the three paragraphs from the above-mentioned note by the Executive Secretary. These contain what can be considered his key suggestions for the initiation of the provisional implementation of the Convention.

> "6. He would suggest that the most feasible procedure for the provisional implementation of the Convention, consistent with the Resolution and the Convention itself, would be the *convening of an Interim Executive Body (IEB)* to carry out the functions contained in Article 10 of the Convention *on an interim basis* until the Convention enters into force. At that time the Executive Body would be constituted.
>
> "7. The Interim Executive Body would be *composed of Signatories of the Convention.* Since this body would function within the framework of the Senior Advisers to ECE Governments on Environmental Problems, the rules of procedure of the Commission would apply; therefore all member countries of the Commission as well as Governments and organizations participating in the work of the Commission under articles 8, 11, 12 and 13 of the Commission's terms of reference, would be entitled to participate in meetings of the IEB.
>
> "8. The programme of work adopted by the IEB would be implemented by that body. The IEB would report annually to the Senior Advisers on Environmental Problems."[2]

The suggestions by the Executive Secretary were conceived in such a way as to ensure that as soon as the Convention entered into force the interim mechanism could easily be merged into, and the work performed taken over by, a full-fledged Executive Body established under Article 10 of the Convention. Apart from the need for an interim institutional mechanism an equally important condition for safeguarding the process of implementation was to have clear guidelines from the Senior Advisers for drawing-up a programme of work on which the Interim Executive Body could embark pending entry into force of the Convention.

The Executive Secretary's note contained an "Action plan" dealing with the follow-up of all three decisions of the High-level Meeting. Fairly detailed programmes of work were prepared for the two areas dealt with in the Convention, the Resolution and the Declaration adopted by High-level Meeting. Under a third heading entitled "Other proposed areas for co-operation" the secretariat suggested that the Senior Advisers might wish to take steps for the initiation, adaptation or strengthening of ECE's environmental activities in a number of other areas.

The document also contained the response of the Executive Secretary concerning some strengthening of secretariat resources to enable the Commission to take "on board" the additional work-load that could be expected to arise as a consequence of the High-level Meeting.[3)] The note concluded with a section entitled "Suggested action to be taken by the Senior Advisers" indicating six draft decisions under the heading "Long-range transboundary air pollution", three under that of low- and non-waste technology and three under the heading "Other proposed areas for co-operation".

It is not customary even for a dynamic secretariat like that of ECE to tell the Governments or their representatives in precise terms and in writing what they should do. Normally, if the secretariat thinks that it ought to exert its influence in a particular direction, it prefers to do so more informally and tentatively. But, taking into account the political importance of the High-level Meeting, the Executive Secretary presumably felt that on this occasion he should "strike while the iron was hot"—and it should be remembered that on the wider world arena East-West political relations continued to deteriorate—and that in view of the authority conferred upon him by the Convention, more specifically by its Article 11, he was in this particular case entitled to take the necessary initiatives. It was essential that the Senior Advisers came forward with precise decisions and guidelines which would enable the Executive Secretary to devote his attention to, above all, the early convening of, and the preparation for, the first session of the IEB.

The methodological approach of the drawing-up of the suggested programme of work under the three headings mentioned above was based on *selecting* subjects within major programme areas which, in the Executive Secretary's judgement and having regard also to the decision contained in the ultimate paragraph of the Resolution, should be accorded *priority consideration.*

As regards the principal task of the follow-up process, i. e. the progressive implementation of the Convention on an interim basis, the Executive Secretary suggested that work on specific projects should be organized around the four basic elements of that document: (1) policies and strategies; (2) control technologies; (3) effects of sulphur compounds and other major pollutants; and (4) monitoring. It was evident, he added, that the development and execution of these projects "will proceed in different rhythm and phases", depending on whether work on some of the projects is already in progress or whether the projects are new and will have to be developed. The Executive Secretary's resolve to do everything in his power to expedite matters is reflected in his comment on work in the field of monitoring, viz "that the third session of the Steering Body (of EMEP), to be held on 22 and 23 January 1980, *may already take into account the relevant provisions of the Convention".*[4)]

For those interested in the techniques of programming, each programme area was presented under the following headings: Title; Provisions of the Convention; Description; Status of existing work; Method of work; Responsible body; Timing of the work; Relation to other activities (a) within ECE, and (b) outside ECE.[5)]

Under programme area (1), narrowed down to policies and strategies for the abatement of air pollution caused by sulphur compounds, the task was described as the preparation of a document setting out the policies and strategies *of each of the Signatories* on the subject. "This document would require detailed and *comparable* information provided by Governments".[6)] Under the heading "Method of work" it was stated that the Senior Advisers at their eighth session would adopt the guidelines for the above-mentioned document "on the basis of a draft by the secretariat".[7)] The actual working document would then be prepared by the secretariat for consideration by the Interim Executive Body at its first session in October 1980.[8)] Further periodic reviews would be determined by the IEB. Work programmes under the remaining sections (i.e. control techniques, effects of sulphur compounds, and monitoring) were presented in an identical manner.

The eighth session of the Senior Advisers (18-22 February 1980)

The results of the deliberations of the Senior Advisers at their eighth session (18-22 February 1980) on the follow-up action to the High-level Meeting may be gleaned from the report of that session (ECE/ENV/33, paragraphs 12-40). Their importance is evident, for they were to shape the critical interim period. As could be expected, the Executive Secretary's note was extensively used as a basis for discussion and for the decisions taken.

After a general exchange of views, in the course of which the Senior Advisers expressed the willingness of their Governments to do their utmost to implement the decisions of the High-level Meeting, they expressed the opinion that the outcome of that meeting "should receive adequate attention during the forthcoming session of the Commission".

(a) Procedure for the provisional implementation of the Convention

It was recognized that the most feasible procedure for the provisional implementation of the Convention would be the convening of an Interim Executive Body within the framework of the Senior Advisers. The IEB should co-operate with the Working Party on Air Pollution Problems and use the Steering Body of the EMEP with regard to the provisional implementation of the Convention's provisions on monitoring transboundary fluxes. It was agreed that the IEB should define from among the projects directly related to the implementation of the Resolution and the Convention that were being carried out by the SAEP's Working Party on Air Pollution Problems, those which should be continued or adapted.

After the discussion, the Senior Advisers, realizing that on this occasion their views should be put in operationally precise language, formulated a number of dispositions concerning the follow-up process which were set out in paragraph 24 of their report. The main elements may be summarized as follows: A request is made to the Executive Secretary *to convene an Interim Executive Body* to be responsible for the *implementation of the Resolution and the provisional implementation of the Convention.* The IEB will be composed of the Signatory States. All other member countries of the ECE will take part as observers. Governments and international organizations participating in the work of the Commission under articles 8, 11, and 13 of ECE's terms of reference, will be entitled to participate in IEB's meetings. Since the IEB will function within the framework of the SAEP the rules of procedure of the Commission will apply, taking into account the provisions of Article 14 of the Convention. *Decisions of the IEB will enter into force as soon as the IEB had adopted them.* The Senior Advisers will receive reports on IEB's activities, can comment on them and take appropriate action.

Taking account of paragraphs 3 and 4 of the Resolution, the Senior Advisers decided to attach the highest priority to the completion of a document "setting out the strategies and policies of each of the Signatories for the abatement of air pollution caused by sulphur compounds". Moreover, the Senior Advisers requested the Working Party on Air Pollution Problems to co-operate with the IEB on developing certain projects related to specific provisions of the Convention, and requested IEB to use the Steering Body of EMEP to implement and further develop EMEP on the basis of the pertinent articles of the Convention. The Advisers considered that the IEB should be convened in October 1980 (1) to carry out the review of the policies and strategies (paragraph 4 of the Resolution); and (2) to examine proposals and activities related to the provisional implementation of the Convention by the Working Party on Air Pollution Problems and by EMEP.

Agreement was reached by the Senior Advisers on guidelines (which were annexed to their report) for the completion of the document on strategies and policies of each of the Signatories for the abatement of air pollution, who were invited to transmit the required information to the secretariat by 30 June 1980 at the latest. The secretariat was to prepare the document for the consideration by the IEB at its first session.

(*b*) *Implementation of the Declaration*

In the course of the discussion (summarized in paragraphs 26-29 of the report) the Senior Advisers considered the secretariat's suggestions in this area (contained in section 2 of the note by the Executive Secretary) as being the most appropriate means for the implementation of the Declaration. The Senior Advisers *agreed to establish a Working Party on Low- and Non-Waste Technology and Re-utilization and Recycling of Wastes* to be entrusted with the development of organizational, scientific and technical questions related to the implementation of the Declaration, and invited it to prepare, at its first session in spring 1980, its draft terms of reference for their consideration at their next session. They requested the Working Party to adapt and strengthen, as necessary, in the light of the Declaration, the current activities on (a) the compilation of a compendium on low- and non-waste technology and re-utilization and recycling of wastes; and (b) on the development of methodologies for the comparison and evaluation of various technologies.

(*c*) *Transboundary water pollution*

The Senior Advisers, bearing in mind the views expressed during the High-level Meeting on the importance of transboundary water pollution and the invitation to the SAEP in Commission decision 1 (XXXIV) to co-operate more closely with the Committee on Water Problems, suggested that the Commission at its thirty-fifth session "urgently request the Committee on Water Problems to consider the feasibility of setting up a project in co-operation with the Senior Advisers... for the monitoring and evaluation of transboundary water pollution...".[9)]

The next Commission session could be expected to throw some light on whether or not the implementation of the decisions of the High-level Meeting and the possibility of holding similar policy- and action-oriented conferences on energy and/or transport would be adversely affected by the further marked worsening of East-West, and more particularly of US-USSR, relations which had meanwhile occurred.

The impact of the High-level Meeting on the thirty-fifth session of the ECE (spring 1980)

The thirty-fifth session of the Commission did indeed give "adequate attention" (as the Senior Advisers had termed it in their report) to the outcome of the High-level Meeting. To begin with, the subject figured prominently in the Executive Secretary's opening statement. At the very beginning of his speech Mr. Stanovnik said that "the most noteworthy event since the last session was the successful High-level Meeting within the Framework of the ECE on the Protection of the Environment... This Meeting... will have a profound impact on the environmental situation within the region." At a later stage of his statement he expanded on this initial over-all assessment by characterizing the Meeting as *"an unprecedented event in the history of the ECE. This was the first occasion on which Ministers of member Governments convened within ECE to consider and to take action on a substantive matter of pressing concern to all.* The results of the Meeting fully justified the expectations which commenced with the Soviet initiative of 1976. The careful preparatory work carried out by the Senior Advisers... over three years was crowned with success...". He then reported on what had been done by way of follow-up: "in line with the Resolution calling for provisional implementation of the Convention, the Senior Advisers have already established an Interim Executive Body and called for more intensified activity by the Working Party on Air Pollution Problems and the European Monitoring Programme in support of the Convention. The first meeting of the body will be held in October to review policies and strategies and to adopt a work programme *for implementation of the Convention even prior to its entry into force.* The Senior Advisers also have taken action for the implementation of the Declaration on Low- and Non-Waste Technology and Re-utilization and Recycling of Wastes... As a result of strong interest expressed by many participants at the High-level Meeting the Senior Advisers have suggested that the Commission at this session request the Committee on Water Problems to consider the feasibility of setting-up a project in co-operation with the Senior Advisers for monitoring and evaluation of transboundary water pollution. Following the High-level Meeting the Committee on Water Problems completed work on a "Declaration of Policy on Prevention and Control of Water Pollution, including Transboundary Pollution". The Declaration, now before the Commission for adoption will... have a pronounced influence on governmental policies in this region."10)

The discussion on the outcome of the High-level Meeting took place against the background of preparations by Governments for the forthcoming CSCE follow-up meeting in Madrid and the considerable contribution by the ECE at the multilateral level to the implementation of a number of provisions of the Final Act.

For an agreed summary of the relevant parts of the discussion, use is again made of the report of the session: "Delegations noted with satisfaction that this Meeting... had brought a new *kind of dimension to the Commission's work, strengthened its authority and given an important additional impetus* *to activities in the environmental field... it had marked an important achievement as far as the implementation of the pertinent provisions of the CSCE Final Act was concerned. It had produced concrete results* in the form of a Convention and of a Resolution on Long-range Transboundary Air Pollution and a Declaration on Low- and Non-Waste Technology... The Commission was informed that the process of ratification had been started in several member States. Satisfaction was expressed with the decisions... by the Senior Advisers... on the follow-up to the High-level Meeting and, in particular, their decision to convene in October 1980 the Interim Executive Body. Delegations stressed the importance they attached to the action to be taken by the Commission for the control of other sources of pollution, including transboundary water problems... [T]he useful work of the Committee on Water Problems was the subject of favourable comments, especially its unanimous agreement on the Declaration of Policy on the Prevention and Control of Water Pollution... One delegation... expressed the view that the work [on water pollution control] should be further developed, in particular by the elaboration of *multilateral legal instruments aimed at the implementation of already agreed recommendations and principles.*"11)

The discussion on the significance of the High-level Meeting, excerpted above, was supplemented and echoed by the Commission's consideration of the report of the SAEP (ECE/ENV/33), dealt with earlier in this chapter.12)

The Commission's decision on the follow-up to the High-level Meeting was included in the traditional omnibus resolution 1 (XXXV) adopted on 26 April 1980, entitled "The Work and Future Activities of the Commission and the Proposal in regard to the Holding of All-European Congresses or Inter-State Conferences on Co-operation in the Field of Environment, Development of Transport, and Energy";13) in its paragraph 12 the Commission "*Notes* with satisfaction the adoption during the High-level Meeting... of the Convention and Resolution on Long-range transboundary air pollution and the Declaration in the field of low- and non-waste technology and re-utilization and recycling of wastes, *stresses* the desirability of early ratification of the Convention, *endorses* the decisions adopted by the Senior Advisers... at their eighth session to implement the important results of the High-level Meeting without delay, *further endorses* the priorities established in the ECE programme of work on environmental problems which will give new impetus to the work of the Commission in the field of environment, *and notes* the Executive Secretary's expressed intention to provide secretariat resources adequate for the implementation of the programme of work in this field." It is noteworthy that in the following five paragraphs of the resolution (i.e. paragraphs 13-17) the Commission deals with matters that are in one way or the other linked to, arise from, or are affected by, the High-level Meeting. The Commission adopted the Declaration of Policy on Prevention and Control of Water Pollution including Transboundary Pollution,14) and by its decision C (XXXV), a separate decision directly linked to the results of the High-level Meeting, it reiterated the invitation for closer co-operation between the Senior Advisers and the Committee for Water Pollution and urgently requested the latter "to consider the feasibility of setting up a project in co-operation with the Senior Advisers for the monitoring and evaluation of transboundary water pollution, taking into account the activities of UNEP, WHO, as well as other international organizations... in order to avoid duplication".15)

At this stage the obvious question arises: What, in the light of a patently successful operation of East-West conference diplomacy which the High-level Meeting undoubtedly represented, thus amply justifying the long and arduous toil involved in its preparation, were the chances of political agreement on convening similar meetings on the other two subjects which figured in the original proposal of the Soviet Union or, indeed, on other suitable subjects which seemed to lend themselves to examination at a high level?

Resolution 1 (XXXV), somewhat routinely, recalled the suggestion made in the Commission's decision B (XXXI) "that member Governments should study thoroughly the USSR Government's proposal... in the light of further discussion in the Commission and the relevant provisions of the Final Act of the CSCE" and asked the Executive Secretary "to circulate such views in regard to the proposal as member Governments may wish to communicate to him". But, apparently, no such views were transmitted to him by the Western Governments.

The discussion at the thirty-fifth session on energy showed that the decision to establish a new subsidiary *ad hoc* body on energy was not questioned, but there appeared to be no real meeting of minds as to the question of holding a high-level meeting on energy in the near future. Several delegations (of Western countries) stressed "the importance of an extensive and more complete exchange of information... *On this basis it would be possible to evaluate later the possibilities for real co-operation in the energy sector and to examine the possibility of a discussion of the problems relating to the possible high-level meeting on energy.*"[16)]

Other delegations (mainly of the Eastern countries) considered the new body had almost exclusively concentrated its attention on the question of information, and "had not made any progress in examining problems related to the high-level meeting on energy". This was regrettable, "since several countries... had submitted a draft Declaration to be adopted by a possible high-level meeting on energy, and had specified certain topics which could be placed on the agenda of such a high-level meeting".[17)] After "difficult and intricate negotiations",[18)] the Commission adopted a comprehensive text on the subject which subsequently became decison E (XXXV) — Energy. It acknowledged that "a *closer and mutually advantageous co-operation on energy matters could open up new possibilities for a solution to energy problems facing the ECE member countries",*[19)] and requested the Senior Advisers to ECE Governments on Energy to continue their activities according to the terms of their mandate under decision B (XXXIV) *on the understanding that all its elements should receive due attention".*[20)] Nonetheless it was clear that the political basis not only for convening a high-level meeting, but even for a constructive exploration of its possibilities was lacking. (However, as the history of East-West relations in Europe shows, other ways were found to carry forward practical co-operation in the energy field by means of bilateral and multipartite joint projects, without any involvement of the ECE, though the studies of its Committee on Gas might well have proved useful in the negotiation of the various deals.)

While ECE's Inland Transport Committee had intensified its activities in line with the relevant provisions of the Final Act, a similar lack of consensus as to the feasibility of a high-level meeting in that sector also became evident in the course of the discussion at the thirty-fifth session of the Commission.

On the other hand, despite the ongoing deterioration of East-West relations, the implementation of the results of the High-level Meeting on the Protection of the Environment seemed not only secure but proceeded, as subsequent events showed, at a brisk pace without any sign that could have given cause to doubt the goodwill and the good faith of the Governments which had signed the Convention. The common interests involved were, it seems, strong enough to sustain the process even under unfavourable conditions.

Work starts on the Declaration on Low- and Non-Waste Technology

Before the convening of the first session of the Interim Executive Body, the newly created Working Party on Low- and Non-Waste Technology and Reutilization and Recycling of Wastes, functioning within the framework of the SAEP, held its first session (7-9 July 1980). In opening the session the Director of the Environment and Human Settlements Division recalled that the creation of the Working Party was a result of the decisions taken by the High-level Meeting. The Working Party would bear the direct responsibility for implementing the Declaration, always keeping in mind that, as acknowledged in that document, *its activities would also be of assistance to countries outside the region.*

The launching of the provisional implementation of the Convention: the Interim Executive Body (IEB) meets for its first session (27-31 October 1980)

Meanwhile the secretariat was engaged in preparations for the first session of the Interim Executive Body of the Convention. It was imperative to ensure its success and maintain the momentum. The provisional agenda for the meeting (ECE/ENV/IEB/1) dated as early as 18 June 1980, indicated the extensive and, in many cases, difficult documentation that had to be assembled.[21)]

Although the Interim Executive Body of the Convention was expected to adhere to the rules of procedure and established practices of the ECE, and more particularly its *modus operandi* laid down by the SAEP, it was, of course, not just another of the many subsidiary bodies of ECE. The IEB, once constituted by the SAEP (a decision subsequently endorsed by the Commission), while functioning within the framework of the SAEP was, strictly speaking, a body of the Signatories of the Convention.

The IEB took note of the decision made by the Senior Advisers at their eighth session and of Commission resolution 1 (XXXV) relating to its activities and agreed to bear them in mind when discussing the agenda items. But, by virtue of its special, even though temporary status, it conducted its business in a virtually autonomous manner. Despite its interim nature, the Body apparently could, and did, under Article 10 of the Convention establish, as appropriate, working groups to consider matters related to the implementation of the Convention. But, most importantly, as specified by the SAEP, *"the decisions taken by the Interim Executive Body will enter into force as soon as the Interim Executive Body has adopted them".*

The first session of IEB was held from 27 to 31 October 1980, i.e. for a full working week (which is the normal duration of the sessions of ECE's Principal Subsidiary Bodies). Representatives of 30 Signatories to the Convention, including the European Economic Community, participated. In conformity with the rules and practices of the ECE, a number of UN bodies, specialized agencies of the United Nations and staff members of an intergovernmental organization also attended. The presence of such organizations, as, e.g. UNEP, WMO and WHO, was valuable for they gave considerable substantive support and their direct involvement helped to avoid duplication of work. To underline the significance of the occasion, the Executive Secretary opened the session and made a statement welcoming its participants. The election of officers, i. e. the Chairman, the Vice-Chairman and the two Rapporteurs, followed ECE practice.

The importance of the first session of the IEB, held less than a year after the High-level Meeting and the signing of the Convention,[22)] was that it proved possible to prepare and start the functioning of a mechanism for the implementation of a new legal instrument negotiated under UN auspices, within a relatively brief time-span. The report of the first session of the IEB (ECE/ENV/IEB/2) bears witness to the promptness and operational effectiveness with which it embarked upon its tasks.

The review of strategies and policies of the Signatories for the abatement of air pollution caused by sulphur compounds was unprecedented and could not have been held at the requisite level of thoroughness, comparability, and region-wide coverage had it not been for the Convention and its related Resolution. The secretariat document on this subject (ENV/IEB/R.2 and addenda) "summarized and highlighted the common trends that might be drawn from the information submitted by Signatories,... *set out areas where strategies and policies might be brought closer together,* and identified subjects where more information was needed".[23)] Twenty-six Signatories[24)] had supplied information; these submissions were circulated as addenda to the note by the secretariat. In the "concluding observations" the secretariat suggested "that the IEB may wish to... decide on how the review may most effectively be carried out... Possible alternatives include reviewing country by country or by main issues... The depth and scope of the review will no doubt improve step-by-step as the IEB may... agree on specific action for further reviews and further development of the documentation on strategies and policies. The IEB may also wish to agree on recommendations on specific issues to be implemented by the Signatories... and through co-operative activities in the framework of the ECE."[25)]

"Delegations agreed on the need to seek to bring closer their strategies and policies in this field. More specifically it was agreed to request the secretariat to invite Signatories to report annually to the IEB on any *new developments* with respect to the *strategies and policies, and on progress achieved at the national level.* The review should be on the agenda of each session of the IEB. A major review of the implementation of the Convention and Resolution by the Signatories should take place every fourth year... the reports... should include *information on the impact of national air pollution control policies on long-range transboundary air pollution.* The secretariat was requested to prepare a document on the basis of the information submitted."[26)] It was "generally felt" that the main objectives of the IEB's first session were to give "policy guidance on the problem area and to elaborate a realistic workplan... Various approaches to combat emissions of air pollutants were discussed, *inter alia, the concept of national and regional emission ceilings.* The need for active measures on energy economy were stressed by several delegations."[27)]

The IEB further discussed the documents made available by the secretariat regarding the preparation of a survey on the state of knowledge related to technologies for reducing emissions from sulphur compounds on human health and the environment (ENV/IEB/R.3 and R.4). It was suggested that these two surveys should be revised on the basis of *information provided for the whole ECE region,* and be submitted to the next session of the IEB.[28)]

The Canadian and United States delegations introduced a document

(ENV/IEB/R.6) which contained a Memorandum of Intent between the two countries regarding joint action to reduce the transboundary air pollution problem. It was reported that Governments agencies in these two countries were monitoring acid depositions under the National Atmospheric Deposition Programme (NADP) and the Canadian Atmospheric Network for Sampling Air Pollutants (CANSAP). This system of monitoring in the North American area can be regarded as a counterpart to EMEP.29)

The Chairman of the Steering Group of EMEP reported on progress during the first phase of this programme (i.e. 1978-1980) and gave information on proposed activities. The IEB noted with satisfaction the progress achieved and stressed its importance for the implementation of the Convention. The IEB agreed to request the Steering Body "to implement and further develop the programme on the basis of Articles 7 (b) and (c), 8 (a) and (c), and 9.30) Concern was expressed by the meeting that all necessary and appropriate action should be taken to continue to ensure adequate financial support for EMEP."31)

The above discussions and conclusions resulted in what was probably the key achievement of the IEB's first session, namely the elaboration and adoption of its "Work Plan for the implementation of the Resolution and the provisional implementation of the Convention on Long-range Transboundary Air Pollution."32)

Even to a non-specialist like the present author (who attended the meeting as a representative of UNITAR) it was evident that the IEB succeeded in transacting a great deal of business during the five working days available to it, bearing in mind the fact that it was meeting for the first time. To some extent the positive outcome was due to thorough preparation, but it has also to be ascribed to the high standing of the delegates (some of them participants, under a different "hat", of meetings of the SAEP) and their co-operative spirit. Last, but not least, the impression gained was that a body like the IEB, just because it was an institutional emanation, even if temporary, of a legally binding instrument, and therefore habilitated to act, could more easily "get down to business".

Relevant discussions at the thirty-sixth plenary session of the ECE (spring 1981)

The annual reports of the ECE are "required reading" for anyone who wishes to trace the unfolding of a particular process of "East-West" conference diplomacy within the framework of this organization in any detail. Their perusal is an unavoidable and not particularly exhilarating task. Although much of the argumentation is frequently repeated or reiterated from session to session and reference to individual countries avoided, the carefully agreed and avowedly balanced record of the deliberations of the representatives of ECE Governments at ECE's plenary sessions as contained in the reports, does constitute a fairly accurate indicator of governmental attitudes towards the major activities and programmes of the Commission even if there is frequently need to read between the lines. The reports also reflect, to some extent, the state and the evolution of the external political environment. Therefore, for the sake of the completeness of the historical account and, in this particular case, for the purpose of ascertaining the extent of changes or shifts in positions regarding the possibility of further high-level meetings in other sectors, it is indispensable to summarize and assess the relevant discussions held and decisions taken at all plenary sessions of ECE following the

High-level Meeting up to the "cut-off date" chosen by the author. At the thirty-sixth session the follow-up work appeared to proceed well and the discussions were relatively brief. In his opening statement the Executive Secretary[33] underlined the importance of the prompt and purposeful nature of the steps taken in the implementation of the decisions adopted by the High-level Meeting. In the general debate many delegations welcomed these developments, although some representatives expressed concern at the small number of ratifications "and at recent indications which would imply that not all Signatories were interested in an early ratification".[34]

In their consideration of the report of the SAEP on its ninth session (ECE/ENV/35), delegations "agreed that the implementation of decisions taken at the High-level Meeting... was proceeding satisfactorily".[35] They noted "with satisfaction the progress made on the provisional implementation of the Convention. Full support was given by many delegations for the active participation by Signatories in the promotion of the work of the IEB covering strategies and policies to combat air pollution. The significance of... EMEP was pointed out and widespread concern for its continuation and adequate financial support was registered. Many delegations also noted with appreciation the progress made on the implementation of the Declaration. The Compendium on Low- and Non-Waste Technology was regarded as a significant effort towards the promotion of an environmentally sound technological development in the ECE region.[36]

Ultimately this rather positive exchange of views was reflected in paragraphs 6 and 7 of Commission resolution 1 (XXXVI), with the unchanged and awkwardly long title "The Work and Future Activities of the Commission and the Proposal in regard to the Holding of All-European Congresses or Inter-State Conferences on Co-operation in the Field of Protection of the Environment, Development of Transport, and Energy": ...

> "*Notes with satisfaction* the progress made during the first meeting of the Interim Executive Body (IEB), entrusted with the provisional implementation of the Convention on Long-range Transboundary Air Pollution, the elaboration by the IEB of a comprehensive work plan, and its support for the co-operative programme of work by the first session of the Working Party on Low- and Non-Waste Technology and Re-utilization and Recycling of Wastes, as a follow-up to the High-level Meeting on the Protection of the Environment;...
>
> *Recalls* its resolution 1 (XXXV) and *reiterates* its appeal for early ratification of the Convention."[37]

In the subsequent paragraph the Commission registered some progress made by the Committee on Water Problems regarding the suggestion of the Senior Advisers that it consider the feasibility of a pilot project on monitoring and evaluation of water pollution, an area which stemmed from the general debate at the High-level Meeting; for the Committee on Water Problems had meanwhile set up an *ad hoc* meeting entrusted with the preparation of the draft terms of reference of such a project for subsequent consideration. The Commission welcomed this decision.

Since the implementation of the decisions of the High-level Meeting seemed securely launched, attention was turned to the other two areas, viz. energy and transport, and the question whether any progress had meanwhile been achieved towards the consideration of the possibility of high-level meetings, especially on energy. Given the subject's perceived sensitivity (to which frequent reference has been made) was there any real possibility to make any headway in this regard amidst an increasingly inclement political climate? Had the Senior Advisers on Energy moved forward in "the examination of problems related to a possible High-level Meeting on energy organized within the framework of the ECE", as provided in part (c) of the mandate of this new body set up in the spring of 1979 which had held its third session some weeks before the thirty-sixth session of the Commission?

Of course, the mere fact that the Senior Advisers on Energy seemed gradually to consolidate their position as an ongoing (but formally still an *ad hoc*) Principal Subsidiary Body of the ECE and that a rational discussion on general energy questions was possible at the "political" level of the Commission, could be looked upon as a constructive development holding out hope for more significant results in the future.[38] But it is hardly necessary to read between the lines in order to see that most Western countries, while presumably not altogether excluding the possibility of a high-level meeting at some later stage, considered it premature to discuss possible topics to be examined at such a meeting. On the other hand, it would seem that some Eastern countries believed that if the new *ad hoc* subsidiary body on general energy proved to be unable to make any headway whatsoever towards, at least, preparing the ground for a high-level meeting on energy, its very *raison d'être* could be questioned. No decision related specifically to energy was adopted at that session but the customary over-all resolution 1 (XXXVI) referred to earlier, contained two paragraphs devoted to the work on energy (paragraphs 14 and 15). Work on general energy problems would continue: the possibility of a high-level meeting in this sector in the future was not excluded but was not foreseen, for the time being. Meanwhile the informational base of co-operation on general energy matters within the ECE should be enhanced. The compromise already reached by the Commission at its preceding session in decision E (XXXV) on energy remained essentially the same. No discernable forward movement had occurred.

As regards the transport sector, the situation concerning the possibility of convening a high-level meeting likewise remained in abeyance,[39] and the omnibus resolution included no mention of the question of transport, apart from the routine repetition of the need to study the original Soviet proposal.

The over-all impression consequently gained from the tenor of the discussion was clearly that, under the prevailing circumstances, there was little scope for launching new major initiatives of "East-West" conference diplomacy, though there was a somewhat distant prospect that—if, and when, the political climate had improved—a serious examination of concrete proposals that seemed to lend themselves for consideration at a high-level meeting on energy was not to be excluded.

The follow-up to the High-level Meeting on Environment seemed safe. How long the process of ratification would take was still uncertain. But thanks to the work of IEB—whose second session was to convene in the autumn—the provisional implementation of the Convention was in good hands.

The second session of the IEB (2-5 November 1981)

The session was characterized by its briskness—it lasted only four days—and a business-like but collegiate transaction of business. Indeed it appeared likely that in the measure it took root and ceased to be an interim institution, this new body would acquire the same relaxed "club-like" atmosphere as usually prevails in ECE's sectoral bodies.[40]

There were indications that the Convention might enter into force in the foreseeable future: in addition to the nine ratifications already deposited, a number of countries reported that ratification would take place soon.

Three of the four main "problem areas" within the scope of the Convention were discussed: Control technologies; Effects of sulphur compounds; and EMEP.

The IEB adopted the proposals regarding control techniques elaborated by the Working Party on Air Pollution Problems (ENV/IEB/R.9) and requested the secretariat to transmit the recommendations to the Signatories. The IEB also decided that the agreed exchange of information on sulphur compounds control should be a *continuous activity* with the primary purpose of facilitating access to more complete information on such technologies.

The IEB took note of the report of the first session of the Working Group on Effects of Sulphur Compounds on the Environment (ENV/IEB/WG.1/2) and endorsed in principle the Working Group's conclusions and recommendations. The IEB requested the Working Group to elaborate, for consideration by the IEB at its third session, reports on the effects of sulphur compounds in various domains.

The Chairman of EMEP's Steering Body, introducing the progress report on EMEP (ENV/IEB/R.12), stated that the programme, *operating with 70 stations in 20 countries,* was now working satisfactorily though better geographic coverage was still needed. Results showed *that in most countries in Europe a significant part of the sulphur burden was of foreign origin,* a dramatic demonstration of the inextricable international character of the phenomenon.

It was recognized that the EMEP was working well. However, financial difficulties encountered by the programme were generally acknowledged and the secretariat was requested to prepare a note on possible ways to finance this activity for the IEB's consideration.

A second review took place of strategies and policies for the abatement of air pollution caused by sulphur compounds (ENV/IEB/R.13 and addenda). Sixteen Signatories informed the session of new developments. The IEB decided to carry out a major review of developments in the implementation of the Resolution and the Convention at its next session. It was decided that information from the Signatories should be submitted (by 30 June 1982), according to agreed guidelines (contained in annex II to the report) which aimed at a much more specific and searching analysis of the evolving situation than the first set of guidelines drawn up by the SAEP for the first exercise. The IEB finally adopted an updated Work Plan reflecting its decisions (annex II of the report).

It is heartening in the context of this study to read in IEB's report on its second session that in view "of the amount of work and limited secretariat resources available, the delegations of Canada, France, Norway, Sweden, USSR, United Kingdom, USA and the EEC offered, subject to confirmation, their assistance by designating experts for the preparation of draft reports" on a number of topics calling for considerable technical knowledge.[41)] The IEB agreed that informal meetings of such experts would be convened by the secretariat. This offer of assistance on a voluntary and no-cost basis reflects not only the best traditions of ECE's style of work but also the desire of the Signatories to make rapid and meaningful progress in terms of concrete action-based on co-ordinated strategies and policies. Altogether the outcome of the second session of the Interim Executive Body (which was, in fact, to be its last) confirmed the promising start of the provisional implementation of the Convention.

NOTES AND REFERENCES

CHAPTER VIII

1. ENV/R.117, para. 1
2. *Ibid.*, Italics added.
3. On the whole the requirements were modest: two additional professional and two general service posts plus twelve man months of consultant support. This strengthening of the secretariat, mainly to sustain the extensive new activities deriving from the Convention would enable the Executive Secretary to establish in the Environment and Human Settlements Division of the ECE secretariat an "Air Pollution Unit" (ENV/R.117, paras. 24-29). See also chapter X, p. 160.
4. ENV/R.117, para. 15. Italics added.
5. While this presentation is patterned on UN practice it is more detailed and complete.
6. ENV/R.117, para. 17. Italics added.
7. *Ibid.*
8. It was in this context that the Executive Secretary suggested the approximate time when the first IEB could take place. Considering the novel nature of the proposed body, the highly technical and political character of the subject matter and the need to give adequate time to the Governments to supply information and for the secretariat to process it, the first session of IEB could hardly have been convened earlier.
9. See ECE/ENV/33, paras. 31-34. For the dispositions of the Senior Advisers, regarding other major areas of the protection of the environment which figured prominently in the course of the general debate at the High-level Meeting, i. e. Control of toxic wastes, and Protection of flora and fauna, see paras. 35-40.
10. See press release ECE/GEN/5. Italics added.
11. E/1980/28, paras. 42-44, and 46.
12. Many delegations "welcomed the fact that special priority had been given... to the completion of a document on national policies and strategies for the abatement of air pollution caused by sulphur compounds, which would enable the Interim Executive Body to carry out the review of progress achieved at the international level as decided in the Resolution... They emphasized... the importance... of the information being provided by the Signatories by the agreed deadline of 30 June 1980. Delegations expressed satisfaction with the decisions for the implementation of the Declaration... Another activity highlighted for co-operative action was the problem of transboundary water pollution... general support was given to the suggestion by the Senior Advisers that the Committee on Water Problems be requested to consider the feasibility of setting up a project in co-operation with the Senior Advisers... for the monitoring and evaluation of transboundary water pollution... In reply to questions... the Executive Secretary stated that sufficient resources would be provided within the existing available resources to the Environment and Human Settlements Division and more particularly to the air pollution unit, to be able to carry out the tasks entrusted to the secretariat." (E/1980/28, paras. 182-184 and 186).
13. For the full text, see E/1980/28, pp. 87-90.
14. For the full text of this Declaration, see E/1980/28, decision B (XXXV), pp. 92-96.
15. For the full text, see E/1980/28, p. 97, decision C (XXXV).
16. The Senior Advisers to ECE Governments on Energy held two sessions between the thirty-fourth and the thirty-fifth sessions of the Commission. (See ECE/ENERGY/2 and 4.)
17. E/1980/28, paras. 47 and 48.
18. *Ibid.*, paras. 263 and 283.
19. *Ibid.*, p. 98. Italics added.
20. *Ibid.*, p. 99. Italics added.
21. Under item 4 (Review of strategies and policies for the abatement of air pollution caused by sulphur compounds) the secretariat was charged with the preparation of a document setting out the measures taken by each of the Signatories according to an agreed outline. Pursuant to a decision of the Senior Advisers taken at its eighth session, the Working Party on Air Pollution Problems was requested to co-operate with the IEB in developing a project related to Articles 7 and 8 of the Convention, which deal with research and development. At its tenth session (28-30 April 1980) the Working Party, in its turn, asked the secretariat to prepare a survey of the state of knowledge related to the technologies for reducing emissions of sulphur compounds in order to assist the IEB in deciding upon further work in this field. In response to a decision of the Senior Advisers the Working Party on Air Pollution also requested the secretariat to prepare a survey of the state of knowledge related to effects of sulphur compounds on human health and environment. Since these matters were still but little explored, the elaboration of the initial documentation constituted an arduous and responsible task for all concerned.
22. By the first session of the IEB (October 1980), five Signatories had ratified the Convention (see report of the first session, ECE/ENV/IEB/2, para. 12). These were the Byelorussian SSR, Hungary, Portugal, Ukrainian SSR and the USSR. (See chapter IX, note 20, and annex VI).
23. ECE/ENV/IEB/2, para. 10. Italics added.
24. The information submitted by the European Economic Community (ENV/IEB/R.2/Add. 4) referred

to action taken by the Community itself.

25. ENV/IEB/R.2, para. 73.
26. ECE/ENV/IEB/2, para. 14. Italics added.
27. *Ibid.*, paras. 16 and 17.
28. *Ibid.*, paras. 20-23.
29. *Ibid.*, paras. 36 and 18.
30. Article 7 deals with Research and Development; Article 8 with Exchange of Information; and Article 9 with Implementation and further Development of EMEP.
31. ECE/ENV/IEB/2, paras. 30-32.
32. *Ibid.*, annex I. The introduction to the Work Plan explained that the plan would be carried out through a regular review of policies and strategies for combating air pollution, and through the development of further co-operation within the scope of the Convention "*Signatories will seek to bring closer together their policies and strategies,* aimed at gradually reducing and preventing air pollution".

    More specifically the IEB was to review the provisional implementation of the Convention and the implementation of the Resolution, establish working groups as appropriate to prepare concrete studies and to submit recommendations to the IEB and fulfil other appropriate functions.

    Concrete measures were set out in the Work Plan concerning *strategies and policies,* based on agreement resulting from the first review that was undertaken. In the area of control technologies emphasis was to be placed on the consideration of possible sulphur compounds control strategies. A continuous exchange of information on research was to be organized by the secretariat to result in a document for consideration by the IEB.

    Under the last heading, *Effects of sulphur compounds and other major air pollutants,* a working party was established to deal, *inter alia,* with the effects of sulphur compounds on materials, aquatic ecosystems and soil, ground water and vegetation. (Italics added).
33. See ECE/GEN/9.
34. E/1981/53, para. 43.
35. *Ibid.*, para. 202.
36. *Ibid.*, paras. 203, 204 and 206.
37. *Ibid.*, The explicit linkage between the IEB's work on the provisional implementation of the Convention and the progress of the programme of work of SAEP's Working Party on Low- and Non-waste Technology and the Re-utilization and Recycling of Wastes should be noted.
38. In the general discussion "delegations stressed the importance of energy questions for countries in the region. They felt that... the Senior Advisers... on Energy... could play an important role *in future considerations* of energy problems in the region... One delegation stated that... the holding of an all-European conference on energy could serve... to identify new possibilities for implementation of large-scale projects of mutual interest. Some delegations.. felt that the Commission should ask the Senior Advisers to initiate the preparatory work for a high-level meeting on energy. One delegation suggested that the high-level meeting should take place by 1982 at the latest. Another delegation considered that a close link between the Senior Advisers' work programme and the preparation of the high-level meeting *was a pre-requisite for the continued existence of this ad hoc body*... Other delegations considered that the study presented to the Senior Advisers contained deficiencies which needed to be corrected before the study was considered to have fulfilled the goals set for it by the Senior Advisers... the study should be revised, up-dated and improved on the basis of new information supplied by the Governments" (E/1981/53, paras. 40-42. Italics added).

    The secretariat study referred to was entitled "Energy Problems and Co-operation in the ECE region" (ENERGY/R.10) and was prepared pursuant to paragraph 32 (4) of document ECE/ENERGY/4. The study contained an analysis of replies to a questionnaire which had been furnished by 30 ECE countries. At their third session, the Senior Advisers on Energy agreed that "they would consider the revised study as soon as possible after distribution. This study, together with other relevant documents... *could serve as a useful basis for further work at their fourth and subsequent sessions for the fulfilment of all parts of their mandate*". (See report by the Executive Secretary (E/ECE/1024—Energy). Italics added.) It will be recalled that the first part of the mandate referred to the examination of problems related to a possible high-level meeting on energy within the framework of the ECE.
39. E/1981/53, paras. 47, 177 and 178.
40. For the report of the IEB on its second session, see ECE/ENV/IEB/4.
41. ECE/ENV/IEB/4, paras. 32 and 33.

CHAPTER IX

CONSOLIDATION AMIDST POLITICAL UNCERTAINTY

The thirty-seventh plenary session of the Commission (spring 1982)

The thirty-seventh plenary session of the Commission (held during the period 23 March to 2 April 1982) was destined to meet under circumstances shaped by a further and even sharper degree of downturn in US-USSR relations and East-West relations generally (though, rather surprisingly to some observers, economic and trade co-operation in the European region, especially at bilateral level, continued to function much better than might have been expected).

The prevalence of a state of political tension was noted by the Executive Secretary in his opening statement;[1] a tension which had not, to the best of the author's recollection, been evidenced in the ECE since the early 1950s and which visibly affected the course, nature and rhetoric of the general debate at the thirty-seventh session.[2]

Mr. Stanovnik's opening remarks were in fact of a valedictory character, for he announced that he would be relinquishing his post as ECE's Executive Secretary at the end of 1982, after almost 15 years. This study bears witness to the truly unique contribution he personally made to the initiation, preparation and fruition of the High-level Meeting.

After noting that "the activities of the Commission are extremely sensitive to political developments in the region and in the world", the Executive Secretary said that "to-day, we face in this region a dual challenge, at once political and economic. *The deteriorating political climate in East-West relations* is combined with the most serious economic problems that member countries have faced since the Second World War. Much as the sources and nature of economic difficulties may differ in the socialist and market economy countries, they are occurring simultaneously and influencing the course of economic co-operation within the region...". In Executive Secretary's view the most important areas for over-all co-operation in the future "will be the areas of energy, trade, transport and environment". When, at a later stage in his statement he spoke of environment, it was, no doubt, not without a sense of achievement and justifiable pride, that he could say without fear of contradiction, that the High-level Meeting "marked a high point with respect to environmental co-operation in the region.... The ratification process for the Convention proceeds normally and we have reason to be satisfied with the progress in other fields of the implementation of the work programme in this area as well."[3]

The delegations seemed to share this appraisal of the High-level Meeting. The discussion by the Commission on the follow-up to the Meeting was rather brief which indicated that the implementation phase proceeded smoothly so that there was little to add to what had been said and even reiterated on previous occasions. Some concern was, however, expressed about the slow pace of ratification,[4] and the need to secure adequate financial support for the operation of EMEP was emphasized. The delegation of Sweden announced that it had invited the Signatories of the Convention to a Ministerial Conference on the Acidification of the Environment, as a contribution to the work under the Convention. (It was to be held at the end of June 1982 in Stockholm.)[5]

During the subsequent examination of the work of the ECE's subsidiary bodies, including that of the SAEP, several delegations intimated that their Governments anticipated completing ratification in the next few months. The Work Plan adopted by the IEB at its second session in November 1981 received favourable comment.

With regard to the progress made in implementing the Declaration on Low- and Non-Waste Technology and Re-utilization and Recycling of Wastes adopted by the High-level Meeting, many delegations stressed the importance of full and active participation by ECE Governments in this programme; and several representatives mentioned the need for a larger number of contributions to the Compendium on Low- and Non-Waste Technology.

Reverting to ECE's sensitivity to political developments in the region, to which the Executive Secretary had referred, the general debate included a lengthy, highly "politicized" and acrimonious exchange of views, rather rare in the ECE. It centred on the events in Poland and was characterized by sharp accusations and counter-charges on the part of delegations which, contrary to ECE practice, were identified by name in the Commission's report. The clearest indication of perceptions and attitudes of many Western Governments as to the future strengthening of East-West co-operation within ECE's framework was given by the representative of the United States who said that *"ECE must recognize frankly the political realities which overshadowed its work... Violation of the fundamental precepts of the Helsinki Final Act... made inappropriate new initiatives within the ECE or proposals for high-level meetings".* Earlier, a number of delegations noted "that some countries under different pretexts had raised new obstacles to the realization of the Soviet proposal to convene high-level meetings on energy and transport, although the West was apparently less interested in those fields than the East". The Swiss delegation "saw the Commission's role as being to keep open the channels of communication and co-operation with regard to technical matters... *that being so it could hardly undertake any large initiatives at the present time".*[6]

Limited results of the session

The results of the thirty-seventh session, in terms of significant decisions and new initiatives, were, and could not have been expected to be, anything but meagre. The traditional "omnibus" resolution 1 (XXXVII) was conceived in very general terms. In its operative paragraphs the Commission, *inter alia,* merely called on member Governments "to continue to take full advantage of the potential of the Economic Commission for Europe as an instrument for strengthening economic relations and multilateral co-operation in the region;" and considered "in this connection that the implementation of all provisions of the Final Act... and full respect for the principles guiding relations among participating States set out therein are an essential basis for the development of co-operation among them in the fields of trade, industry, science and technology, the environment and other areas of economic activity" — an affirmation which lent itself to differing political interpretations and which was clearly linked to the difficulties which the talks at the CSCE Meeting in Madrid were experiencing. And it was not by accident, but as a consequence of East-West political differences, that the resolution lacked a title as distinct from similar resolutions adopted at the preceding sessions, the titles of which had always referred to the proposal of the Soviet Government on the organization of inter-State congresses in its heading. Moreover, no reference to this proposal appeared in the text of resolution 1 (XXXVII). It would seem therefore, that the Western countries did not wish to pursue the proposal of further high-level meetings under existing circumstances. However, political relations between States never stand still.

After the acrimonious political exchanges, when delegations reverted to a review of ongoing activities of the Commission they stressed "the importance of energy questions for all countries in the region and agreed that there was potential for co-operation in this area".7) The Commission was able to adopt a decision (A (XXXVII)-Energy) which, though "low profile" and cautiously phrased, approved the programme of work of the Senior Advisers on Energy (no mean achievement in itself) and invited the Executive Secretary "in consultation with the member Governments" to convene, at an appropriate moment, the fifth session of the Senior Advisers on Energy, and sanctioned, in similar fashion, *ad hoc* meetings on particular aspects of energy.

Decision B (XXXVII) on Co-operation in the field of the environment showed that, notwithstanding the sharp political differences, ECE Governments wished to record their satisfaction with the progress achieved in the implementation of the decisions of the High-level Meeting. By repeating its appeal for an early ratification of the Convention, and by noting the ongoing implementation of the programme of work based on the Declaration on Low- and Non-Waste Technology, the Commission clearly indicated that the work begun as a result of the High-level Meeting would continue normally and could not be allowed to be adversely affected by political circumstances.

Twelve more ratifications at that time were needed for the entry into force of the Convention. Ratifications were awaited from most of the members of the European Economic Community and the EEC itself. Agreement to include in decision B (XXXVII) the Commission's renewed appeal for an early ratification seemed to indicate that the States concerned had not altered their decision to proceed with the matter. Even though further delay would not have interfered with the implementation of the instrument on an interim basis, the follow-up process would have been politically harmed by an inordinate delay in the instrument's entry into force.

Decision E (XXXVII) dealing with the monitoring and evaluation of transboundary water pollution, limited itself to welcoming the adoption by the Committee on Water Problems of the terms of reference for a programme on these aspects and to taking note "of the readiness of some ECE member countries to participate in a pilot project or projects on a monitoring system or systems in the ECE region, when and where member countries concerned agree, following the above terms of reference".

The thirty-seventh session was disappointing to all those who believe in the common and the mutual benefits of an expanding "extra-political" co-operation between countries having different economic, social and political systems in the ECE region, in the spirit of the UN Charter and the Final Act of Helsinki. It is therefore gratifying that the unfolding activities resulting for the implementation of the decisions of the High-level Meeting seemed immune to the tension-laden political atmosphere which surrounded the session.

The Stockholm Ministerial Conference on Acidification of the Environment

This Conference, convened by Sweden as an individual ECE member State and Contracting Party, on the occasion of the tenth anniversary of the 1972 UN Conference on Human Environment, was directly linked to the Convention adopted by the High-level Meeting. All Signatories of the 1979 Convention were invited to attend. Therefore the gathering belongs to the narrative of the present study. Indeed, it was the first of several similar initiatives to strengthen the Convention.

Held at a high political level and on a region-wide basis,[8)] the Stockholm Conference can be regarded as an important *unilateral contribution* to the implementation of the ECE Convention by one of its Contracting Parties which had rendered signal and pioneering service to the cause of the protection of the environment through international co-operation, both global and regional. Unfortunately, only two Eastern countries attended, although apparently no particular significance is to be attached to this.

The Conference was preceded by expert meetings (lasting three days) on the effects of acidification and control strategies.[9)] The report from the expert meetings formed an essential background for discussions among the ministers and heads of delegations and for the consideration of the contributions from international institutions.

The authors of *Acid Rain in Europe and North America* write that, as regards the second phase of the Conference, "the tenor of many official statements by the international representatives and national spokesmen, mainly ministers of domestic environmental agencies, was strongly environmental... a surprising number of speeches evidenced a recurring theme... international pollution problems are now taken more seriously than they were even a year ago. This appeared true with regard to nations which are, in general, less environmentally aware.... Canada and the Scandinavian nations continued to push for more vigorous implementation of the 1979 ECE Convention... and for the establishment of concrete international abatement programmes... they were forcefully joined by... West Germany. Its change of position was attributable mainly to concern surrounding air-pollution impacts on forests... Switzerland, for similar reasons, also strongly supported international controls".[10)]

The Stockholm Conference helped to crystallize the growing realization that the crucial issue was "whether countries are ready to take measures needed to cut back emissions to an acceptable level. The consensus reached by the Ministerial Conference... was extremely encouraging about this." Representatives of the 21 Signatory States agreed that urgent action should be taken under the Convention on Long-range Transboundary Air Pollution, including:

"(*a*) Establishing and implementing concerted programmes to reduce sulphur and as soon as possible, nitrogen oxide emissions;

(*b*) Using the best technology available that is economically feasible to reduce these emissions taking account of the need to minimize the production of waste and pollution in other ways;

(*c*) Supporting research and development of advanced control technologies;

(*d*) Developing and implementing energy conservation further;

(*e*) Developing the North American monitoring programme and EMEP further, through better geographical coverage, improved data on emissions, standardizing sampling and measurement techniques and improved modelling, among other measures."[11)]

The Conclusions of the Stockholm Ministerial Conference not only helped to alert public opinion to the alarming and growing danger to the environment, but also stimulated the deliberations of the Executive Body when it convened for its first session after the Convention entered into force in the early spring of 1983. The Conference is a noteworthy example of the way in which multilateral and unilateral conference diplomacy can be mutually reinforcing.

Growing public awareness of the danger of air pollution

The growing awareness in the late 1970s and early 1980s, of the danger of air pollution in the region, of which the Ministerial Conference in Stockholm was one manifestation, was due to the convergence of a number of developments. Ongoing industrialization led to greater emissions which in turn stimulated research leading gradually to a better scientific understanding of the phenomenon. Visible damage by air pollution stimulated action by environmental groups. Members of the public became alarmed; and certain sections of it became politically active in the field of environmental protection. All this led Governments, some more than others, to the conclusion that national action, even if costly, was imperative and inevitable. While it is outside the scope of this study to undertake a systematic survey of the extent to which the media in the ECE countries have been giving attention to environmental topics, the growing concern of the public at the ever more visible deterioration of the environment by air pollution and its effects on health, agriculture and human artefacts, appears to have led to better coverage of the subject through films, television programmes and newspaper articles. By way of example, reference may be made to a series of three lengthy and closely researched articles entitled "Acid Rain over Germany" published in the influential and widely read West-German news magazine *Der Spiegel,* in November and December 1981. These articles which focused on the national situation, especially on the damage being done to the country's forests, were said to have made a deep impression on public and governmental opinion (not limited to the Federal Republic) and led to changes in national anti-pollution policies.(12)

Another notable national publication was a report entitled "Acid Rain, the Politics of Pollution" published in the United Kingdom at the beginning of December 1983, and given great prominence in its media. (According to the survey of national policies of a number of ECE countries on air pollution, contained in the book *Acid Rain in Europe and North America,* the competent authorities in the United Kingdom had been dubious about the need for strong international control in this regard.) Many further instances during the period under review of growing anxiety of the public over the consequences of acidification affecting governmental policies could be cited. But although public awareness of the perils to environment had grown over the years, vested interests and genuine or alleged economic constraints have held up progress in many countries.

Yet due to greater readiness on the national plane not only to envisage but also to take radical measures to contain a relatively recent and patent threat to the environment, coupled with a gradual realization of the far-reaching consequences of the transboundary characteristics of the phenomenon, the period referred to here, was ripe, and called for energetic and effective action nationally and for concerted strategies internationally. Thus, the preoccupations of the Governments, the technicians and the citizens on the one hand and the concerns of the competent international organizations on the other began to converge. As a result, the "political will" behind what at first sight did strike one as a "weak" or a "soft" Convention, was to infuse it, all obstacles notwithstanding, with a somewhat unexpected strength.

Thus the starting point for international organizations and their secretariats becoming more action-oriented in a particular sector is the formation of a solid scientific and analytical base which also pre-supposes a "go-ahead" signal by the Governments followed by sustained co-operation at the level of experts and advisers on governmental policies.

A considerable amount of such work had been accomplished by the ECE in the field of environment, especially since the beginning of the 1970s. It is against this background that the decision by the ECE secretariat to devote an entire issue (of some 170 closely printed pages), of the *Economic Bulletin for Europe,* ECE's Quarterly, for the first time since the Journal's inception in 1948, to the problem of Environment, has to be viewed.[13)] The contents range over a wide spectrum of environmental issues and perspectives, as they affect the region in a global context.

In the introductory article it is pointed out that "protection of the environment is today recognized as a constitutent part of socio-economic policies and strategies throughout the ECE region.... In fact, it has become a priority issue in an increasingly interdependent world where the pressure on resources is growing and many ecosystems already carry burdens beyond their capacity.... Many major environmental concerns can no longer be dealt with effectively within national contexts. And an increasing number of issues call for solutions through intergovernmental co-operation involving transboundary, multinational or global projects.... In view of the heterogeneous composition of the membership of the Commission comprising countries with different economic and social systems, specific environmental issues are generally addressed initially by extensive exchange of information on national situations and approaches.... The particular importance attached by Governments to co-operation on governmental concerns within ECE was clearly reflected in the recommendations of the 1975 Final Act of the Conference on Security and Co-operation in Europe and the convening of the High-level Meeting on the Protection of the Environment in 1979.... This is the background against which the papers published in the present issue of the *Economic Bulletin for Europe* should be viewed. They represent summaries and syntheses of documents stemming from joint Government activities in recent years."[14)]

The bulk of the papers bear directly or indirectly on air pollution problems. Readers of the present monograph may be particularly interested in the contribution which contains a conveniently concise five-page résumé of the High-level Meeting and of the Convention.[15)]

There is also a detailed historical and descriptive study of lasting value as a reliable source of reference on the origin, operation and results of EMEP.[16)] Particular attention is drawn to tables 1 and 2[17)] showing, firstly, calculations of the average monthly "sulphur budget" for the two-year period 1 October 1978 to 30 September 1980 for 28 countries in Europe and the remaining area inside the region;[18)] secondly, sulphur deposition to foreign emissions, the "undecided background deposition", and the deposition from indigeneous sources, as a percentage of total deposition in each country. These two tables constitute perhaps the most telling illustration of the inextricable and "across the board" nature of the phenomenon of long-range transboundary air pollution in Europe, whereby, depending on geographic location, the level and structure of industry and the prevailing wind patterns, virtually all countries become both "exporters" and "importers" of depositions, with some countries, irrespective of their internal systems, like Czechoslovakia, Denmark, Finland, Greece, Hungary, Luxemburg, the Netherlands, Norway, Poland, Romania, Sweden and Switzerland, being currently net "importers", of air pollution. Another paper, "Strategies and Policies for the Abatement of Air Pollution Control by Sulphur Compounds",19) is of general interest in the context of the present study.

From provisional implementation to entry into force of the 1979 Convention

The process of ratification of the Convention, given its cumbersome nature, was proceeding "normally". Article 16 provided that the instrument was to enter into force "on the ninetieth day after the date of deposit of the twenty-fourth instrument of ratification, acceptance, approval or accession".

Five Signatory States had ratified by the end of 1980; a further seven did so by the end of 1981. By the middle of 1982 another three States had completed the formalities, thus bringing the total to 15, with nine more ratifications needed.

At the end of June 1981, no States members of the EEC nor the EEC itself had ratified the Convention. Apparently, their original intention was that they all would deposit instruments on the same date, but France had ratified as early as 3 November 1981, and Denmark on 18 June 1982. The remaining seven EEC members and the European Economic Community as such ratified on 15 July 1982, bringing the total to 23. This was very good news indeed. Before the year was out, Austria, on 16 December 1982, ratified as the twenty-fourth Signatory State, so that *the Convention entered into force on 16 March 1983*.

It had thus taken about three and a quarter years to reach that goal, which, under the circumstances, can be considered a rather satisfactory result. The Executive Secretary of the ECE was now enabled to convene the first session of the Executive Body on a "permanent" basis. The date fixed was the period 7-10 June 1983. By then three more States—Turkey, Iceland and Switzerland—had deposited the necessary instruments bringing the number of the Contracting Parties to 27.20) By the time of the second session of the Executive Body in September 1984 the following Signatories had become Contracting Parties: Czechoslovakia (23 December 1983), Greece (30 August 1983) and Liechtenstein (22 November 1983) bringing the total number to 30. (See annex VI, Status of the Convention on Long-range Transboundary Air Pollution and its Related Protocols (as of 15 May 1988).)

Towards the first session of the Convention's Executive Body

Soon after it became certain that the Convention would enter into force in the spring of 1983, the Executive Secretary decided, acting under Article 11 (a) of the instrument "to convene and prepare the meetings of the Executive Body".

The IEB at its second session (held from 2 to 5 November 1981) had agreed to hold its third session *tentatively* from 7 to 11 February 1983,21) but with the date of entry into force a certainty, there was no cause for the IEB to meet again.

For over two years the Interim Executive Body had functioned provisionally on the basis of a series of decisions and "requests" of a procedural, institutional and substantive character taken by the SAEP at its eighth session (early in 1980) in order to ensure a prompt follow-up to the High-level Meeting.

As a result of these activities certain procedural and working practices had evolved, an *ad hoc* Working Group had been established, and a Work Plan been drawn up by the representatives of the Signatory States. But, despite this element of continuity, as soon as the Convention entered into force, the IEB ceased to exist. An Executive Body would, under Article 11 of the Convention no longer be "composed" of the Signatory States but be "constituted" by the Contracting Parties to the Convention. But before that Executive Body could be constituted two concerned ECE bodies, the SAEP and the Commission itself, were due to meet: the Senior Advisers for their eleventh session from 14 to 17 February, and the Commission for its thirty-eighth plenary session from 12 to 23 April 1983.

Preparing the ground: the "common understanding" of the Senior Advisers

The Convention, in its Article 10 specified that the "representatives of the Contracting Parties shall, within the framework of the Senior Advisers to ECE Governments on Environmental Problems, constitute the Executive Body. With the entry into force of the Convention imminent, it was proper for the SAEP to prepare the ground for the constitution of the Executive Body. This was done in the course of their eleventh session.22)

First, the Senior Advisers put on record that the provisional implementation of the Convention, through the IEB, had proceeded in a constructive way in five areas — effects on the environment of sulphur compounds taking into account effects of other pollutants; control technologies; monitoring and evaluation of the long-range transmision of air pollutants; analysis of the costs and benefits associated with different levels of reduction of SO_2 emissions; and strategies and policies.

Thereafter, while deliberately refraining from taking any decisions as to how the Executive Body should proceed and operate, the Senior Advisers reached a "common understanding" as to the manner in which the Executive Body *could* be expected to function. This "common understanding"—a felicitous term—should be looked upon not as a directive but as an interpretation of the new situation that had arisen, on which the SAEP were fully entitled and indeed expected to take a position.

As the text of the "common understanding", section (a), put it, "for all, practical purposes, Signatories to the Convention are encouraged to take an active part in the work of the Executive Body".23) This seemed to be a commonsense arrangement for at that time eight Signatory States had not yet ratified the Convention.

The text of the "common understanding" continued: "All other member countries of the ECE *as observers,* as well as Governments and organizations participating in the work of the Commission under articles 8, 11, 12 and 13 of the Commission's terms of reference will be entitled to participate in the Meetings of the Executive Body",23) a formulation identical to that included in the text concerning the establishment of the Interim Executive Body which is contained in the report of the Senior Advisers on their eighth session (ECE/ENV/55). At first sight, it might appear strange that an ECE *member* country *which has not signed the Convention* has a lesser (i.e. "observer") status in the Executive Body than a country participating in ECE's work under article 8 (i.e. in a consultative capacity) which has ratified the instrument. That is nevertheless an inevitable consequence of the provisions of Article 10 of the Convention, a consequence which underlines the autonomous character of the Executive Body.

As distinct from the dispositions made by the Senior Advisers concerning the IEB at an earlier stage of the implementation process, it was left to the Executive Body *itself* to determine its own procedural régime, and as will be seen it settled this matter in a somewhat novel though pragmatic manner.

The Senior Advisers' definition of the "framework" link between the Convention and themselves was spelt out in section (c) of the "common understanding": "in order to facilitate the implementation of the Convention and to avoid overlap and duplication of effort close co-operation between the Executive Body and the Senior Advisers should be established".

Having acknowledged earlier that the Interim Executive Body possessed a decision-making capacity of its own, the Senior Advisers reiterated their understanding that the "close co-operation" between themselves and the Executive Body did not, of course, affect the fundamental premise that "decisions taken by the Executive Body will enter into force as soon as they have been adopted". It will be recalled that the Senior Advisers, at their eighth session, decided that they "will receive reports on the Interim Executive Body's activities" and could "comment on them and take appropriate decisions". However, now that a fully-fledged organ of the Convention was to be constituted by the Contracting Parties, even though this was to be done "within the framework of the Senior Advisers", they considered that it would suffice if the SAEP would be "informed at their regular sessions of the activities being carried out by the Executive Body", and that, on their part, the Senior Advisers should have the opportunity "to make *comments and proposals* relating to the work of the Executive Body as it becomes appropriate".

One clear and important institutional consequence resulting from the impending entry into force of the Convention was that, once this event had occurred, "*EMEP will be carried out under the auspices of the Executive Body* as it becomes appropriate. It will be, therefore, up to the Executive Body at its first session to consider and decide upon the long-term financing of the programme." The Senior Advisers added that "not only the Contracting Parties, but all Signatories are encouraged to join in and fully implement the EMEP".

As regards the actual convening of the new body, the Senior Advisers "were informed that the Executive Secretary, as provided by Article 11 of the Convention, intends to convene the first session of the Executive Body from 7 to 10 June 1983".

This author felt justified in dwelling at some length on the procedural and institutional implications and repercussions of the establishment of the Executive Body and the modalities of its functioning, as they were envisaged by the Senior Advisers for two reasons; in order to clarify the special status of a body derived from, and uniquely concerned with the implementation and development of, an intergovernmental legal instrument, and to demonstrate that *its anchorage in a UN organ was deemed to be fully compatible with an efficient, self-reliant and semi-autonomous functioning under the Convention.* This "anchorage" in ECE's "framework" would not become an empty formality but would remain meaningful even after the establishment of the new body. The Senior Advisers, whose efforts had ensured the preparations for the High-level Meeting, would have to follow the activities of the Executive Body on their own behalf and that of the Commission; and, as the ECE's Principal Subsidiary Body with over-all responsibility for ECE' activities in the field of environment, they would also have to safeguard the co-ordination of the work of the Executive Body under the Convention with the implementation of the Declaration adopted by the High-level Meeting on Low- and Non-Waste Technology and the integration of these two areas into the programme of work on environment as a whole. In its turn the plenary of the Commission itself would presumably wish to provide an opportunity for the participating Governments to express their views on the progress made in implementing the decisions adopted by the High-level Meeting.

Parallel progress in implementing the Declaration on Low- and Non-Waste Technology

The proceedings of the eleventh session of the SAEP provide a convenient and chronologically justifiable opportunity—even if this somewhat interrupts the main trend of the narrative—to take stock of progress in the implementation of the Declaration on Low-and Non-Waste Technology and Re-utilization and Recycling of Wastes.[24)]

The Working Party on this subject, set up as a subsidiary body of the SAEP, had held three sessions by the end of 1982. The impression gained from its documentation is that a fair amount of useful work had been done, especially in terms of information-gathering. More than 100 monographs had been prepared for the Compendium on Low- and Non-Waste Technology, a compilation not previously attempted on an international scale. During its eleventh session the SAEP examined ways and means to consolidate and increase accessibility to the information contained in the Compendium. Work had also been carried out on methods of evaluating low and non-waste technologies and on incentives and determinants for the promotion of energy — and resource-saving measures.[25)]

Obviously, as with abatement of transboundary air pollution, the development and introduction of a new and costly waste-reducing technology (amidst an unfavourable world economic climate) is at best a slow and uneven process. What is important is that an impetus was generated, and the momentum maintained through periodic reviews of this complex issue. The use of some of the practices evolved and perfected by the ECE in its technical activities again proved their worth: in order to involve particular Governments in the marshalling and dissemination of information concerning particular aspects of a relatively unexplored subject, certain Governments were designated to act as "focal points", or as "lead" countries or as members of "task forces".

ECE's programme of work for 1986-87 on environment (which forms part of the over-all programme of work of the Commission) contains a multiple project identified as project No. 05.2.1., which is included in "work area" 05.2 on "Resources and Waste Problems". This project bears the title of the Declaration adopted by the High-level Meeting, and is subdivided into six project components (with an indication of their duration).[26)] The presentation provides a fairly clear idea of the contents and direction of the activities. But, while the totality of the project embodies a series of measures which in time can be expected to clarify many aspects of the introduction of low- and non-waste technologies and thereby to facilitate their application, it should be borne in mind that the Declaration did not expressly envisage a co-ordination of national policies. The project components move therefore principally on the plane of exchanges of information on national research, knowledge and experience; this applies also to project-component 05.2.1.4. "Determinants and policy-measures for the promotion of low- and non-waste technology" etc..., whose description explains that "information will be exchanged on national experience in this regard". As to "work to be undertaken" under this particular heading the Working Party "will proceed with more in-depth studies on the use of various measures, in particular economic disincentives, for promoting low- and non-waste technology". Nonetheless, the potential usefulness of this research should not be underestimated. If and when Governments judge that the situation so warrants, it could at a later stage proceed to a higher level of international co-operation in this area by means of *a gradual harmonization of national actions,* as foreseen in the United Nations Charter.

Consolidation of the results of the High-level Meeting amidst continued political tension (the thirty-eighth session of the ECE (spring 1983))

It was the new Executive Secretary, Mr. Klaus A. Sahlgren, a senior Finnish diplomat and economist, who addressed the session.27) After paying tribute to the work of his predecessors and drawing attention to the impact on the orientation of the Commission's work of the Declaration adopted by the Commemorative Ministerial Meeting on the occasion of ECE's twentieth anniversary, held in April 1967, and of the CSCE's Final Act, he stressed that *"ECE has a long-term usefulness to all member Governments which transcends short-term political vicissitudes".*28) Though he had heard no voices opposed to that fundamental thesis, [Governments'] "ideas about the speed and direction of further advances vary considerably.... while everyone agrees that co-operation in the fields of economics, of science and technology and of environment contributes to the reinforcement of peace and security in Europe and in the world as a whole, *over-all political relations reflecting mutual confidence are at the same time perceived as a prerequisite for the development of economic co-operation".* But he was convinced that *"all Governments could benefit from some confidence-building measures in the economic field also".*29)

The problem of confidence and confidence-building has meanwhile been acknowledged as a central aspect of East-West relations. The author holds the view that the concept of East-West confidence-building should not be limited to the military domain, but must embrace the psycho-political, economic and humanitarian spheres. In particular, multilateral co-operation in the economic and related fields on matters of major common concern which is proceeding in an institutionalized and regulated manner under United Nations auspices, coupled with a capacity for monitoring the resultant progress over the longer-term, undoubtedly helps to generate confidence founded on common and mutual advantage through joint effort and predictable behaviour. The High-level Meeting and the implementation of its results can be regarded as belonging to a category of confidence-building measures30) through which politics and economics "intertwine" (to use the Executive Secretary's expression).

There has already been occasion to remark that this particular operation of East-West conference diplomacy did not seem to have been visibly affected in an adverse fashion by a persistently unpropitious political environment. The Convention had entered into force a few weeks before the thirty-eighth session convened. When referring to this crowning event which followed "an active period of preparation, planning and preliminary work", the Executive Secretary put on record that "much useful work was accomplished in the provisional implementation of the Convention.... The groundwork is thus well prepared for the first session of the Executive Body which will take place from 7 to 10 June. This meeting will face the challenge of formulating a work programme in full implementation of the Convention...".31)

The Executive Secretary dwelt at some length on the continued importance of ECE's work in the energy field. He considered that approval by the Commission at its preceding session of a revised work programme in this area represented a significant advance. He therefore felt that it would be timely and necessary for the Senior Advisers to meet again. For understandable reasons, the Executive Secretary, given the situation, did not even touch in his first opening statement on the possibility of convening high-level meetings to deal with aspects of this sector or any other sector. But he did appeal to the Governments "to turn the political and economic uncertainties which still surround us into an incentive to work even harder and more constructively together, in the demanding tradition of the organization, the Economic Commission *for* Europe".32)

The continuing unfavourable state of foreign relations impinged itself once again clearly on the tenor of the session's proceedings. This was especially evident in the discussions under the recurring agenda item on the work of the Commission as a whole, item 5, worded on this occasion, "The work and future activities of the Commission and the proposals in regard to all-European co-operation in the field of protection of the environment, development of transport, energy and other fields."33)

The annual report states that, after the adoption of the agenda, the Chairman announced that it was his understanding that "the Commission would continue its activities in the field of protection of the environment, development of transport, energy co-operation and in other fields, on the basis of the resolutions and decisions adopted by the Commission and taking into account, *inter alia,* the proposals submitted by the Executive Secretary". This observation was followed by statements with regard to agenda item 5 by the delegations of Canada, the Federal Republic of Germany, speaking on behalf of the European Economic Community, and the United States of America "that they understood the phrase 'all-European co-operation' to refer to co-operation by and among all members of the ECE". The political motivations and the rationale were clear, but, to the best of the author's recollection, it was for the first time that an explicit declaration of this kind had been made at a plenary session of the Commission.34)

Early in the debate "many delegations regretted that no consensus on a final document had yet been reached at the Madrid meeting of the CSCE and expressed the wish that a balanced and substantive document be adopted".35) Delegations noted that the session "was taking place during a period of continuing international tension, and serious economic difficulties". Some delegations considered that "despite the policies of 'sanctions' and embargoes, economic co-operation in this region should be intensified as one means of easing tension". Other delegations, however, "considered that economic co-operation did not take place in a vacuum and that prevailing international tensions and violations of human rights in some countries created difficulties for any significant expansion of international economic co-operation, including ECE's activities".36) After these exchanges, strongly coloured by political controversy, the Commission addressed itself to its various activities, including environment, energy and transport.

Once again the consideration of the progress in the follow-up of the High-level Meeting proceeded in an astonishingly harmonious fashion, in complete contrast to the preceding polemics. "Many delegations noted with satisfaction that the Convention... had entered into force... [and] considered [it] an excellent example of what ECE could achieve in the field of the protection of the environment. Attention was also drawn to the forthcoming first meeting of the Executive Body...; a number of delegations expressed the hope that appropriate resources would be made available to the Body, notably to the long-term financing of... EMEP''.[37)]

In connection with the wider impact of the High-level Meeting on the entire range of activities in the field of environment, two delegations ''suggested that the ECE Declaration of Policy on Prevention and Control of Water Pollution, including Transboundary Pollution, be used *as a starting point in a process of gradual international legal regulation of this issue at a general European level, e.g. by negotiating a convention on transboundary water pollution''.*[38)]

The more detailed examination by the Commission of the work programme going forward under the auspices of the SAEP provided a further opportunity to delegations to comment, occasionally somewhat repetitively, upon the progress in the implementation of the decisions adopted by the High-level Meeting. Several countries which had not yet ratified the Convention reported that steps were being taken for this to be done in the near future.

The Convention was considered to be ''a major achievement in the protection of the environment and... a positive reflection of member Governments' willingness to participate in constructive co-operation on problems of regional concern... some delegations reported that national activities were already being initiated in concert with these results''.[39)]

In connection with the convening of the first session of the Executive Body, ''many delegations underlined that the *Executive Body was an independent body under the Convention'',* welcomed the ''common understanding reached within the framework of the Senior Advisers that decisions taken by the Executive Body would enter into force as soon as they had been adopted'' and that the Co-operative Programme (EMEP) would be carried out under the auspices of the Executive Body.[40)]

As regards the second topic on which the High-level Meeting had adopted a Declaration, i.e. Low- and Non-Waste Technology and the Re-utilization and Recycling of Wastes, many delegations considered that progress had been achieved in the implementation of this decision on an increasingly important matter. The reformulated programme of work of the Working Party on the subject for 1983-1987 (contained in volume II of the Commission's report covering the thirty-eighth session, E/1983/22), was considered favourably and the 1984 seminar in the USSR on low-waste technology was noted with particular interest.

ECE's programme of work on environment contained also a project —05.3.2— ''Strategy for environmental protection and rational use of natural resources in ECE member countries covering the period up to the year 2000 and beyond''. The project owed its origin to a proposal by the USSR put forward at the eleventh session of the SAEP.[41)] Its ''philosophy'' stemmed from the concept of international co-operation founded on the co-ordination of national policies and strategies which also underlies the Convention on Transboundary Air Pollution. The project stressed the importance of viewing the abatement of transboundary air pollution as a constituent part of a longer-term comprehensive and interlocking programme on the protection of the environment, implying the growing need for region-wide co-operation of a continuing and future-oriented activity *as part of a global programme.* In the project's description it was stated that ''the joint elaboration and implementation of general principles of a strategy for environmental protection and rational use of natural resources would facilitate the resolution of environmental problems in the ECE region *both at national and international levels...* and may also be an *input in the elaboration of a UNEP global strategy* in this field".[42)]

The Commission adopted three decisions which bear directly or indirectly on the High-level Meeting and its wider impact.

In its decision B (XXXVIII) on Air pollution, the Commission, bearing in mind the entry into force of the Convention, appealed to member Governments, which had not yet ratified the Convention, to do so and, more generally, to Governments to implement fully the principles and provisions of the Convention. The urgency of intensifying efforts to arrive at co-ordinated strategies and policies in the ECE region so as to decrease effectively sulphur emissions was also stressed. (This is particularly noteworthy in view of the fact that the Governments of Finland, Norway and Sweden had, at the end of March 1983, circulated for the Executive Body's first session a document entitled "Proposal for a Concerted Programme for the Reduction of Sulphur Emissions" (ENV/EB/R.7).) Finally, the decision contained a request to the Executive Secretary to report to the thirty-ninth session in respect of the activities of the Executive Body on the implementation of the Convention.[43)]

Decision F (XXXVIII) on Co-operation in the field of protection of the environment addressed itself, *inter alia,* to the theme of low-waste technology. The Commission, *inter alia,* welcomed the activity of the SAEP with regard to the implementation of the Declaration adopted by the High-level Meeting on the subject and invited them to continue their efforts in this field. Taking into account that henceforward transboundary air pollution would be dealt with under the auspices of the Executive Body, the Senior Advisers were invited to concentrate their efforts on other important environmental problems, and to expand co-operation in the protection of flora and fauna and their habitats. Finally the Commission took up project 05.3.2 of ECE's programme of work calling upon the Senior Advisers "to consider at their next session the elaboration of strategy for environmental protection and rational use of natural resources in the ECE member countries for the period up to the year 2000, taking into account decisions regarding the elaboration of a global strategy to be taken at the eleventh session of the Governing Body of UNEP".[44)]

Decision G (XXXVIII) on Monitoring and evaluation of transboundary water pollution addressed itself to a continuation of efforts, stimulated and fortified, no doubt, by the High-level Meeting, to pursue badly needed co-operative measures aimed at mitigating the increasingly deleterious consequences of transboundary water pollution. However, the prospects of a legal regulation of that major problem, the need for which seems plausible, received no mention.[45)]

Nevertheless, *grosso modo,* both the discussion and the decisions of the thirty-eighth session of the Commission relating to the High-level Meeting and to the topic of the environment in general can, under the circumstances, be regarded as quite satisfactory. But, as regards the possibility of the Commission holding high-level meetings on energy and transport in the future, once again no signs of any significant shifts in, let alone a *rapprochement* of, attitudes can be recorded.[46)]

Notwithstanding the political difficulties and obstacles surrounding the possibility of a high-level meeting on energy, the work of ECE's Committees on Coal, Electric Power and on Gas should not be overlooked. These bodies deal with operational projects that have a direct bearing on closer and action-oriented co-operation between Eastern and Western countries and appear to be consistent with the concept of a greater measure of *co-ordination of national programmes and policies on particular forms of energy at a region-wide level.*

During the detailed discussions of the activities of the Committee on Electric Power, for instance, the enhanced role played by the Committee in co-operation among ECE countries in this field was emphasized. Two East European delegations expressed the hope "that the Committee would co-operate more closely with the Senior Advisers on Energy, *particularly with regard to the choice of topics that might be studied within the framework of a high-level European meeting on energy*".[47] As regards a particular "action-oriented" project— Electric power systems and interconnections—the delegations of Finland and Yugoslavia stressed the importance of this work area; the delegation of the German Democratic Republic observed that the level reached by the development of production systems in both western and eastern Europe prompted the conclusion "that the east-west interconnection was desirable in order to meet more fully the demand for electric power;" the delegation of Switzerland referred to "back to back" direct-current connections "as a realistic means of co-operation in the field of east-west interconnection, and said that it was in favour of an exchange of information and experience in that respect.[48]

As regards the Committee on Gas, delegations "stressed the fundamental role of gas in meeting energy requirements. Vast natural gas reserves and large-scale transport possibilities offered favourable prospects for expansion of the gas industry and international trade in gas".[49] This statement was not only highly topical but contained *prima facie* a potential subject for discussion at policy-level. (As has been observed at an earlier stage of this study, the conclusion of a large-scale East-West deal on the supply of gas from the USSR to some Western countries combined with industrial counter-deliveries faced considerable political difficulties which, however, were ultimately overcome.)

The stalemate on the question of further high-level meetings remained, though its protagonists made it clear that they were not prepared to give up their efforts in this regard. Meanwhile there were signs that ECE's subsidiary bodies dealing with energy and transport were led increasingly and to some extent inexorably to concern themselves with some of the policy aspects and implications of those sectors which were of potential interest to the region as a whole.

NOTES AND REFERENCES

CHAPTER IX

1. Press release ECE/GEN/4.
2. E/1982/19, especially paras. 36-65.
3. Press release ECE/GEN/4. Italics added.
4. Twelve Signatories had by March 1982 ratified the Convention, half of the number required for entry into force (i.e. Bulgaria, Byelorussian SSR, Canada, Finland, France, Hungary, Norway, Portugal, Sweden, Ukrainian SSR, USSR, USA).
5. E/1982/19, paras. 69-72. (The Swedish delegation had previously made an advance announcement of the Conference at the IEB and at the preceding session of the Commission.)
6. *Ibid.*, paras. 48, 43 and 56. For more details of the various arguments advanced during this part of the debate, see paras. 36-63.
7. *Ibid.*, para. 63.
8. The Conference which lasted from 21 to 30 June 1982 was attended by representatives from the following Signatories of the Convention: Austria, Belgium, Canada, Denmark, Finland, France, German Democratic Republic, Germany (Federal Republic of), Hungary, Ireland, Italy, the Netherlands, Norway, Portugal, Romania, Spain, Sweden, Switzerland, United Kingdom, United States of America, and the European Economic Community There were also representatives from ECE, UNEP, WHO,

WMO, and OECD. Representatives of many non-governmental organizations attended as observers. (The author understands that no particular significance is to be attributed to the absence of East-European countries). (The Conference was held in two phases. The experts met from 21 to 24 June; and the Ministers from 28 to 30 June.) The Executive Secretary of the ECE addressed the Conference at its ministerial phase.

9. "At these meetings over a hundred of the leading scientists, engineers, and pollution control officials from 20 nations gathered to produce a detailed summation of the current 'state-of-the-art' knowledge of the scientific, technical and policy issues surrounding the acidification problem." *(Acid Rain in Europe and North America, op. cit.*, p. 147. The account of the Stockholm Conference in the book contains a summary of the experts' conclusions.)
10. *Op. cit.*, pp. 147-148.
11. Quoted from "State of the World Environment 1983", a report from UNEP published in *UN Chronicle,* May 1983. p. 42.
12. Despite the thoroughness and comprehensive nature of this series, little attention was given to the international dimension of long-range air pollution.
13. "Environment: A Decade of Co-operation within the Economic Commission for Europe", *Economic Bulletin for Europe,* vol. 34, No. 1 (March 1982). Published by the Pergamon Press for the United Nations.
14. *Op. cit.*, p. 1.
15. *Ibid.*, pp. 7-12.
16. *Ibid.*, pp. 29-40. See also a more up-to-date paper on EMEP by Harald Dovland "Monitoring European Transboundary Air Pollution", *Environment* (Washington, D.C.), vol. 29, No. 10, December 1987.
17. *Op., cit.*, p.34 (table 1), and p. 37 (table 2).
18. It will be recalled that the United States and Canada operate a separate monitoring system.
19. *Op. cit.*, pp. 61-69.
20. The List of Signatories to the Convention on Long-range Transboundary Air Pollution with dates of ratifications, which is annexed to the report of the Convention's Executive Body on its first session (ECE/EB.AIR/1) is reproduced below:

Austria	16 December 1982
Belgium	15 July 1982
Bulgaria	9 June 1981
Byelorussian SSR	13 June 1980
Canada	15 December 1981
Czechoslovakia	
Denmark	18 June 1982
Finland	15 April 1981
France	3 November 1981
German Democratic Republic	7 June 1982
Germany, Federal Republic of	15 July 1982
Greece	
Holy See	
Hungary	22 September 1980
Iceland	5 May 1983
Ireland	15 July 1982
Italy	15 July 1982
Liechtenstein	
Luxembourg	15 July 1982
Netherlands	15 July 1982
Norway	13 February 1981
Poland	
Portugal	29 September 1980
Romania	
San Marino	
Spain	15 June 1982
Sweden	12 February 1981
Switzerland	6 May 1983
Turkey	18 April 1983
Ukrainian SSR	5 June 1980
Union of Soviet Socialist Republics	22 May 1980
United Kingdom	15 July 1982
United States of America	30 November 1981
Yugoslavia	
European Economic Community	15 July 1982

21. ECE/ENV/IEB/4, para. 34. Italics added.
22. See the report of the Senior Advisers on their eleventh session (ECE/ENV/40).
23. ECE/ENV/40, para. 27, which contains the text of the "common understanding".
24. *Ibid.*, paras. 29-36.
25. For details of previous work done in implementing the Declaration, see the reports of the SAEP on their ninth and tenth sessions (ECE/ENV/35, paras. 39-43; and ECE/ENV/38, paras. 31-37).
26. See E/1983/22/Add.1, pp. 55-58.

27. Press release ECE/GEN/5.
28. *Ibid.* Italics added.
29. *Ibid.*
30. It will be recalled that the USSR considered that its proposal, if acted upon, would lead to a strengthening of confidence.
31. Press release ECE/GEN/5.
32. *Ibid.*
33. E/1983/22, paras. 39-65. It will be noted that the reference to the proposal for holding all-European congresses or inter-State conferences had been omitted.
34. *Ibid.*, para. 23.
35. *Ibid.*, para. 44.
36. *Ibid.*, para. 46.
37. *Ibid.*, para. 50.
38. *Ibid.*, para. 53. Italics added.
39. *Ibid.*, para. 176.
40. *Ibid.*, para. 177.
41. ECE/ENV/40, para. 18.
42. E/1983/22/Add.1, p. 61. Italics added.
43. See E/1983/22, p. 70, for text of decision B (XXXVIII).
44. *Ibid.*, pp. 72-73, for text of decision F (XXXVIII).
45. *Ibid.*, p. 74, for text of decision G (XXXVIII).
46. *Ibid.*, paras. 47, 48 and 254-255.
47. *Ibid.*, para. 128.
48. *Ibid.*, para. 132.
49. *Ibid.*, para. 134.

CHAPTER X

THE CROWNING OF THE CONFERENCE PROCESS

The Executive Body of the Convention convenes for its first session (7-10 June 1983)

Three and a half years or so had elapsed before the executive machinery of the Convention on Long-range Transboundary Air Pollution was constituted in accordance with the dispositions contained in Articles 10 and 11. The importance attached by Governments to this first session of the Executive Body was evidenced by the fact that representatives of 30 Contracting Parties and Signatories to the Convention participated, and also by the policy-making attributes of many representatives, seven of whom were of ministerial rank.[1] A number of relevant UN bodies, specialized agencies of the UN, and international organizations, both intergovernmental and non-governmental attended. Since this was the inaugural meeting of the Executive Body it was, as was proper, opened by the Executive Secretary of the ECE acting under the authority conferred upon him under Article 11 of the Convention. By coming together, the representatives of the Contracting Parties constituted the Executive Body which was endowed with specific functions set out in the Convention.

Following the election of the Bureau and the adoption of the agenda (ECE/ENV/EB.1), the Executive Secretary delivered an opening address.[2] He said that it was an honour for him to welcome "this distinguished gathering on the occasion of the first meeting of the Executive Body of the Convention... *The presence of so many Ministers* and *other eminent officials*", he continued, "bears testimony to the critical importance which Governments of our region attach to one of the major environmental challenges affecting this region and to the prospects which this Convention holds for dealing constructively with it." As summarized in the report of the session the Executive Secretary in his opening statement, "*recalled the important political decisions providing the basis for this meeting,* notably the Final Act of the Conference on Security and Co-operation in Europe adopted in Helsinki in 1975, and the signing of the Convention... at the High-level Meeting... in November 1979. The Executive Secretary then called for further strengthening of the national strategies and policies... and a *significant move towards international action.* The Executive Secretary also emphasized *the importance of the work carried out under the provisional implementation of the Convention as a basis for deliberations with regard to the future work of the Executive Body.*"[3]

The phase of provisional implementation had indeed proved to be of crucial importance in setting into motion the follow-up action for it enabled the Executive Body to get down to work, *medias in res,* almost immediately, and reach an executive decision of considerable moment.

In a matter of only four working days, the Executive Body transacted a considerable amount of work, as may be seen from its report.[4] The fact that the EB met within the framework of a UN body with considerable experience of conducting brief concentrated meetings was certainly conducive to the businesslike nature and despatch of its work. A careful examination of the proceedings shows that the Executive Body of the Convention represents a distinct institutional mechanism and differs in several important respects from the *modus operandi* of ECE's Principal Subsidiary Bodies.

To begin with, its Bureau is larger than is customary in ECE, and than that of the IEB, though the balanced East-West composition has been carefully preserved. ECE's practice is to elect a Chairman, a Vice-Chairman and two Rapporteurs. But, as will be seen from the report of the Executive Body on its first session, in addition to the Chairman and the two Rapporteurs, the EB also unanimously elected *three* Vice-Chairmen.5) It should also be noted that the symbol, ECE/ENV/EB/..., used by the secretariat for the documentation prepared for the first session of the Executive Body was thereafter changed to ECE/EB.AIR/..., a new document series which underlined the EB's special institutional status.

After "taking note" of the "common understanding" reached by the SAEP at their eleventh session and the relevant decisions adopted by the Commission at its thirty-eighth session, the Executive Body agreed to "bear them in mind when discussing the various agenda items"6)—an indication that, while these guidelines and decisions are not, strictly speaking, binding upon the EB, the executive mechanism of the Convention is linked to the ECE as a whole through its Executive Secretary who is required under the Convention (Article 11) to carry out a number of functions, including those "assigned by the Executive Body".

The discussion of procedural matters at the inaugural session of the EB is not without interest to a student of the workings of international machinery, especially against the background of growing sensitivity of certain countries towards the use of the majority vote for the adoption of decisions and the resultant preference for consensus-building.

In line with the decisions of the SAEP, the Interim Executive Body followed the Commission's rules of procedure, without, however, feeling constrained to acknowledge this in its report. Even at that stage of provisional implementation of the Convention, based on an interim institutional arrangement, the Senior Advisers had qualified their decision by stating that in applying the rules of procedure, the provisions of Article 14 of the Convention, which contains the compromise text concerning the position under the Convention of regional economic integration organizations, had to be borne in mind. In other words, it was a question of the use of the ECE rules of procedure *mutatis mutandis.* As has been pointed out on several occasions, ECE's rules of procedure had over the years been adapted to the practical requirements of the Commission and its subsidiary bodies. A number of rules had been tacitly waived. More importantly, the classic parliamentary provision set forth in rule 35, namely that "decisions of the Commission shall be made by a majority of the members present and voting", has been used in the Commission in exceptional cases only and virtually never in the subsidiary bodies.

As Gunnar Myrdal, ECE's first Executive Secretary used to remind Governments, international economic co-operation cannot be regulated by majority decisions but only by agreement. This applies particularly to East-West economic dealings in the ECE where it is the western group of countries which has the majority of votes, so that the rights of the "minority" are protected by rule 36 which provides that the Commission "shall take no action in respect of any country without the agreement of that country".

As regards the Executive Body of the Convention, the Senior Advisers in their "common understanding" had refrained from pronouncing themselves on the EB's procedural régime.

On the proposal of its Chairman, Mr. V.G. Sokolovsky (Deputy Chairman, USSR State Committee for Hydrometeorology and Control of Natural Enviroment), the Executive Body resolved to apply the rules of procedure of ECE, "taking into account the provisions of Article 14 of the Convention". The EB "decided to apply the rules of procedure with the provision that certain amendments might have to be made in order to suit the purposes of the Executive Body".7) This pragmatic approach seems wise. It was clear that the Executive Body could under no circumstances proceed to a formal vote on matters of any importance, except for purposes of elections. Otherwise it obviously intended to work, implicitly or explicitly, by consensus. In fact, the EB had, before taking up the question of its procedural régime, *unanimously* elected, i.e. strictly speaking, *voted to elect* its officers and thereby adapted rule 13 of ECE's rules of procedure which provides for a Chairman and only one Vice-Chairman. But then, the EB put on record that it was its *consensus* that the Bureau would hold office until the next session.8) Leaving aside these somewhat minor procedural niceties, what seemed to emerge was a commonsense arrangement to use, or be guided by, ECE's rules of procedure in the conduct of proceedings, but to arrive at substantive decisions by consensus. Given the nature of the phenomenon dealt with by the Convention it is obvious that the only way of making meaningful progress in terms of co-ordinated national policies is through convergence and concertation of efforts by that method. Article 12 of the Convention deals with amendments to the instrument. It spells out the procedure for the submission of the proposed amendments and determines the role of the Executive Body in discussing them. The Article specifies that amendments to the Convention "*shall be adopted by consensus of the representatives of the Contracting Parties* and shall enter into force for the Contracting Parties which have accepted it...". It is therefore not surprising that this fundamental obligation had not only to be borne in mind but also to be observed, by the Convention's Executive Body in its deliberations.

With the advantage of the thorough groundwork, during the interim phase of the provisional implementation of the Convention, substantively and politically, nationally and multilaterally, the representatives of the Contracting Parties and the Signatory States who took part in the first session of the Executive Body seemed prepared to adopt meaningful and tangible measures which would induce and ensure action. They demonstrated their readiness, to implement the Convention *and* the Resolution related to it, despite differences in material interests in matters of transboundary air pollution as measured by the extent of domestically produced and imported emissions of pollutants the state of national legislation, the pressure of public opinion and of environmentalists, the costs involved, etc... They also heeded the call of the Commission in its decision B (XXXVIII) to intensify "efforts to arrive at co-ordinated national strategies and policies in the ECE region to decrease effectively sulphur emissions at national levels". The Executive Secretary gave expression to this spirit when he said that "even if all the links between emissions of pollutants, acid rain and environmental damage may not have been demonstrated down to the last decimal, *it is clear that public opinion in our region would not understand or accept a mere continuation of the important analytical work here without a significant move towards international action*".9)

Proposals for action

Agenda item 5—Strategies and policies of the Signatories of the Convention for the abatement of air pollution caused by sulphur compounds—was the central focus of attention. For, in addition to the information provided by the Signatories and a background summary report prepared by the secretariat (ENV/EB/R.1), two proposals had been circulated to the participants in good time for decision and action. The first, submitted by the Governments of Finland, Norway and Sweden was distributed as early as the end of March 1983 under the title "Proposal for a Concerted Programme for the Reduction of Sulphur Emissions" (ENV/EB/R.7). The proposal postulated that "between 1983 and 1993 *the over-all goal should be a 30 per cent reduction* of total national sulphur emissions, using 1980 emission levels as a basis for the calculation of reductions. Special consideration should be given to those countries which had recently implemented control measures resulting in substantial reductions of total national sulphur emissions." The Nordic submission contained detailed suggestions as to the means which could be employed towards achieving this over-all goal.

The second proposal, tabled by the Governments of Austria, the Federal Republic of Germany and Switzerland, was entitled "Proposal for a Common Strategy of the Contracting Parties to implement the Convention on Long-range Transboundary Air Pollution" (ENV/EB/R.10). In this document, dated 19 May 1983, it was argued that such a co-ordinated strategy "must be based on the obligation to reduce emissions at source by applying the best available technology which is economically feasible". As regards the reduction of sulphur dioxide emissions, it was stated that the "memorandum of the Governments of Finland, Norway and Sweden contains a co-ordinated programme with concrete proposals. These proposals are fully endorsed." It was added that *the sulphur dioxide emissions of smaller installations and of vehicles with diesel engines also contribute to the long-range transport of air pollution.* Further, the second submission outlined programmes for the *reduction of nitrogen oxide emissions* and the extension of monitoring of all EMEP stations "to include as a matter of priority, nitrogen components and oxides and, as soon as possible, also heavy metals". Finally, a purposeful programme providing for an improvement in the exchange of information between the Contracting Parties, especially on damage of ecosystems, was put forward. The two proposals, in fact, embodied the principal aims for the "development" of the Convention.

Some brief comments on the above proposals may not be out of place:

(1) The sponsors of the two drafts were all Governments of countries particularly affected by and concerned about the harmful effects of long-range transboundary air pollution. The Nordic countries, for reasons mentioned earlier, had been increasingly worried by this problem over many years. The Governments sponsoring the second submission had realized more recently not only the danger and the damage done but had taken a number of measures to reduce it. The Nordic draft was also clearly inspired by the findings and recommendations of the Stockholm Ministerial Conference on Acidification.

(2) The two sets of proposals seemed to be complementary. The second proposal was relevant not only in terms of implementing the Convention adopted by the High-level Meeting but also the Declaration on Low- and Non-Waste Technology.

(3) Both documents, while drafted by experts and therefore thought through in technical terms, were *clearly approved at policy-level,* since each envisaged a series of technical measures with far-reaching policy implications.

(4) Both proposals, especially the former, contained quantitative targets and

suggested ways and means of reaching concrete results such as the adoption of national standards for the reduction of emissions. The Nordic proposal also specified a target-date.

(5) The two drafts could therefore be considered as carefully researched policy- and action-oriented and also as operational propositions, which would be vigorously pursued.

Each was, in fact, the kind of proposal which should increasingly determine the economic and related intergovernmental co-operation between States Members of the United Nations, and especially between countries having different internal systems, on major matters of common concern. It is therefore a matter of regret and almost surprise that no proposal was submitted by other countries and that no other countries co-sponsored either of those tabled.

The discussion on item 5 was businesslike and to the point.[10)] Some salient extracts from the report may suffice to indicate its scope. The growing damage to ecosystems in a number of member countries was noted with concern, and many delegations "stressed the importance of taking immediate action to reduce sulphur emissions". Several delegations supported the quantitative target (i.e. a 30 per cent reduction of total national sulphur emissions by 1993 calculated on the basis proposed by the three Nordic countries); a number of delegations also supported the proposals for a programme of emission reductions of nitrogen oxide (as contained in the second submission). However, some delegations "expressed the opinion that *the setting of specific targets for the reduction of national SO_2 emissions was premature* and that priority should be given to strengthening national and international research...".[11)]

Several delegations reported that their countries had adopted specific legislation on sulphur oxides since 1980 (which may, in part at least, have been due to the adoption of the Convention). The entry into force, on 1 April 1983, of air quality standards of SO_2 and particulates in the countries of the European Economic Community was announced.[12)]

Several delegations recommended a broadening of the scope of the current work of EMEP so as to include nitrogen oxide as well as other relevant pollutants; but other delegations expressed doubts as to such broadening of EMEP's work, noting the necessity to elaborate scientifically sound priorities with regard to such substances.[13)]

Decision A (I)

On the basis of the discussions held (and, no doubt, a fair amount of informal negotiations), the Executive Body *"formulated and adopted"* decision A (I) on "Strategies and policies of the Contracting Parties to the Convention on Long-range Transboundary Air Pollution for the abatement of air pollution caused by sulphur compounds". In view of the importance of the decision its full text is reproduced hereunder:

> *"The Executive Body,*
>
> *Bearing in mind* the decision B (XXXVIII) of the Economic Commission for Europe at its thirty-eighth session which, *inter alia,* '*Stresses* the urgency of intensifying efforts to arrive at co-ordinated national strategies and policies in the ECE region to decrease effectively sulphur emissions at national levels',
>
> *Noting* with appreciation that a number of Contracting Parties are resolved to initiate measures for implementing a 30 per cent reduction of national sulphur emissions or their transboundary fluxes by 1993-1995, using

1980 emission levels as a basis for the calculation of reductions,

Noting also with appreciation that other Contracting Parties have adopted or are considering the possibility of adopting measures leading to a notable reduction of emissions,

1. *Recognizes* the need to decrease effectively the total annual emissions of sulphur compounds, or of their transboundary fluxes by 1993-1995 using 1980 emission levels as a basis for the calculation;

2. *Agrees* that information on national measures initiated or implemented for this purpose and their projected results be reported to the secretariat for inclusion in the documentation for the second session of the Executive Body;

3. *Agrees* on the need for the Contracting Parties to develop further for the third session of the Executive Body national programmes towards reductions, as far as possible, of sulphur emissions or their transboundary fluxes, bearing in mind the necessity of a reduction of air pollution;

4. *Decides* that the above elements be taken into account in the implementation of the over-all work programme under the Convention.''[14)]

As can be seen, it did not prove possible at that stage to agree on a quantitative target for the decrease of the volume of sulphur emissions at national levels, although the reference commending the resolve of a number of Contracting Parties to achieve a 30 per cent reduction by 1993-1995 was, of course, meant to serve as an indirect indication or even a tacit acceptance of the order of magnitude of an ''effective decrease''. The agreement on a common method of computing the abatement of transboundary pollution represents a considerable achievement, making it possible to compare the results obtained. Furthermore, decision A (I) contains *an agreed time-frame*—1993/1995—within which such ''effective'' decrease is to take place; it sets out *a procedure and a time-table* for reporting on ''national measures initiated or implemented for this purpose as well as on ''their projected results'' already to the second session of the Executive Body in the autumn of 1984; and it embodies an *agreement* to develop further the national programmes towards reduction of sulphur emissions for the EB's third session (in 1985).

Considering the complexity of the subject matter, the variety of situations obtaining in the different countries, and the resultant difficulty of defining an area of agreement that would be both meaningful and acceptable to all concerned, decision A (I) can be regarded as a notable achievement: it could be expected to have a positive effect on the level of long-range transboundary air pollution compounds in the ECE region and to provide a mechanism of accountability whereby the situation would be kept under periodic review and the necessary measures taken to ensure that the commitments were upheld to the maximum extent possible. Some Contracting Parties, no doubt, also *hoped that the decision would pave the way towards a more specific and binding agreement,* as it, in fact, ultimately did.

For once, the media paid some attention to a decision taken within the framework of the ECE: mention of it appeared frequently in leading organs of the press, occasionally with a reference to its ''region-wide'' character, though for whatever reason, little, if any, comment was made upon the fact that it was adopted under UN auspices.

The nature of the decisions of the Executive Body

Several questions arise, in the perspective of the present study, as to the character of decision A (I) and the procedural circumstances under which it was adopted.

Although the Executive Body, at its first session, took decisions on other matters related to its work, such as the financing of EMEP (set out in annex II to its report) and its Work Plan (as contained in annex III), it was solely the agreement on strategies and policies which was considered important enough to assume the form of a full-fledged formal decision bearing the first number of a new document symbol series (A ( )). Although it is not expressly stated that decision A (I) was adopted by consensus, the report subsequently makes clear that this was indeed the case.

If the definition of consensus contained in the rules of procedure of the CSCE, i.e. "the absence of any *objection* expressed by a representative and submitted by him as *constituting an obstacle to taking of the decision in question"*,[15)] is accepted, no such objection was made at the time of the adoption of decision A (I). Thereafter, however, the United States delegation, while expressing "its appreciation for the dedicated efforts of the meeting towards an action-oriented end product... regretted that it was obliged *to abstain from the consensus* of the decision adopted...". The Government of the United States "was in the process of considering a major review of options for addressing the acid-precipitation problem, and *had to avoid specific commitments at present which might prejudice the outcome of this review*".[16)] Although the formula "abstention from the consensus" seems highly unusual, if not inconsistent with the notion of consensus, it is to be hoped that, based on the above precedent, a practice will develop whereby the adoption by the Executive Body of draft decisions which have general support as a result of a careful balance of interests by negotiation, will not be hindered or frustrated by objections expressed *before adoption* on the part of one or a very small number of delegations, and that their position can be explained, in appropriate manner, after adoption. Observations which could be regarded as questioning the Convention itself should also be avoided. In predominantly political negotiations a country may feel obliged to voice an objection even to a near-consensus and thereby jeopardize it. But experience has shown that unless the objection is motivated by demonstrable harm that would be inflicted upon a country's vital interests in case of acceptance (which, given the safeguards, is highly unlikely in a balanced compromise affecting environmental protection), further negotiations, assuming the presence of political will, can usually dispose of the remaining difficulties.

The question of the nature and legal force of the "decisions" of the Executive Body also deserves attention. Not being a lawyer this author consulted several members of the legal profession on the matter. Their reply was invariably that for the decisions of the Executive Body to be binding directly on the Contracting Parties this would need to be spelled out clearly in the Convention establishing that body.

Subsequently the author had the benefit of the opinion of the Legal Adviser to the Ministry of the Environment of one of the Contracting Parties to the Convention, which he expressed in a purely personal capacity. First, he agreed that the issue raised was important, but that it was difficult to answer, principally because Article 10 (which deals with the constitution and the functions of the Executive Body) was vague and incomplete in its drafting. It gave no guidance at all as to what type of instruments the EB may adopt, the means by which such instruments are to be adopted—a matter which the author has tried, to the best of his ability, to clarify—or what the precise effect in law of those instruments would be.

In attempting to answer the author's question, this specialist in environmental law felt it necessary to distinguish between two distinct categories of decision taken by the Executive Body. On the one hand, there are those decisions binding on the Parties to the Convention as a group. It is well recognized that a body like the EB has an inherent right to regulate its own procedure, to decide upon its own agenda to establish working groups and to convene meetings. Such decisions bind the body itself, but do not bind the member States directly. On the other hand, for a decision of a body *to be binding directly on the member States* is a matter which would need to be spelled out in clear terms in the Convention establishing the body. For this reason the Legal Adviser considered that one should be very hesitant to conclude that Article 10 of the 1979 Convention was drafted in such terms that the EB could take decisions which were legally binding on member States. He concluded that for working purposes one should take it that decisions of the EB such as decision A (I) do not have any legal character, though of course in so saying one was not wishing to rule out reconsideration of this in suitable cases. For instance if the dispositions of one or more substantive decisions adopted by the EB were complied with by all or most of the Contracting Parties, it would be argued that in due time they would be deemed to have become part of customary international law. But a more effective way of developing an otherwise very general framework Convention was for the Contracting Parties to adopt (by consensus) through the Executive Body amendments to the Convention, for instance in the form of protocols and annexes.

This author finds the above conclusions of the Legal Adviser convincing. But he continues to believe that, though the decisions of the EB on substantive matters are not, strictly speaking, legally binding, they can be looked upon as *undertakings of an operational character arising from the provisions of a legally binding instrument on matters of its implementation.* They therefore constitute an *obligation* upon those States whose representatives subscribed to those decisions.

In view of the fact that two Contracting Parties did not attend the first session of the Executive Body, this writer asked himself whether its decisions could be assumed, in the absence of any reaction to the contrary, to be acceptable to the absentees, or whether the Contracting Parties concerned ought to be requested to state their attitude either verbally or in writing—a matter he felt which should be looked into. Meanwhile, the EB would presumably keep under careful review the progress made in initiating the implementation of decision A (I) on which the Contracting Parties had undertaken to supply information to the EB's second session, and would take the necessary measures to ensure compliance.

The Executive Body and the EMEP

Another important matter to which the EB had to give its attention at its inaugural session was its statutory duty under the Convention to "utilize the Steering Body for *the EMEP to play an integral part in the operation of the Convention*".[17] The Chairman of EMEP's Steering Body introduced the report of EMEP's sixth session (ENV/WP.1/12) and stressed, *inter alia,* "the importance of national contributions in the operation of the stations". With regard to the future work he emphasized "the need to extend the number of monitoring stations, update surveys and include nitrogen oxides".

The Executive Body expressed its appreciation for the work of EMEP and decided that, while sulphur compounds should have the highest priority, *research on nitrogen oxides should be included in EMEP's work plan* to the extent that the necessary resources were available.[18] This step represented at least a partial response to the second proposal submitted by the Governments of Austria, the Federal Republic of Germany and Switzerland mentioned above (ENV/EB/R.10 and Corr.1).

Financial aspects

After discussing and deciding how to deal with the conclusions and the dissemination of a number of technical reports before it, the Executive Body turned its attention to the financial aspects of its operations. It was faced by two quite distinct financial issues. The first arose in connection with the short-term and long-term financing of EMEP. Given that the UNEP contribution to the programme was to continue until the end of 1984 at a minimal rate, the programme had to be sustained by voluntary contributions until long-term arrangements for financing could be made. The second issue concerned the financial implications of the Convention in terms of ECE's staff costs. On the first matter the EB adopted recommendations (the text of which figures in annex II to the report on its first session) in which it was proposed to provide for long-term funding after 1984 by means of *a formal instrument such as a protocol or an annex to the Convention;* a number of elements which might serve as guidelines for the draft of such an instrument were enumerated.[19] The first such element was that all Contracting Parties and Signatories within the geographical scope of EMEP's operations should contribute to the costs. A meeting with the task of elaborating a formal instrument was to be convened and the draft instrument submitted to the Executive Body at its second session in the autumn of 1984.[20]

As regards the financial implications of the Convention which amounted to the funding of one professional post in the ECE secretariat by the Contracting Parties, "all delegations were of the opinion that it would be difficult to meet the request to finance staff resources considering that Article 11 of the Convention requested the Executive Secretary of ECE to carry out, for the Executive Body, the secretarial functions of implementing the Convention".[21] For some years the Convention has operated within the existing ECE budget structure. Since 1985 several Governments (notably the Federal Republic of Germany, Finland, the Netherlands, Norway, Sweden and Switzerland) have made voluntary contributions to the United Nations Trust Fund for the Convention (set up in 1984), "earmarked" for the purpose of financing extra professional staff within the ECE servicing the Convention. (Thanks to this arrangement one temporary staff post (First officer in the professional category (P.4)) was thus financed over a two-year period (1986-1988) when all regular recruitment was "frozen" because of the financial difficulties of the United Nations.)

Work Plan for the implementation of the Convention

The elaboration and adoption of a Work Plan for the implementation of the Convention represented a considerable achievement of the EB's first session although the elaboration of the Plan was, no doubt, greatly facilitated by the two Work Plans that had been established by the Interim Executive Body in 1980 and 1981. The format and presentation of the Work Plan of the EB differ from the Work Plans drawn up during the interim period, and from those of the work programme of the Commission and its subsidiary bodies. These differences derive from the qualitative distinction between the activities of the customary UN-type programme based on mere recommendations or non-committing and less operational agreements, whereas the activities of the Executive Body stem from a legally binding instrument. This contrast was reflected in the introduction to the Work Plan for the implementation of the Convention which was formulated in a deliberately categorical manner. "The implementation of the Convention... *will* be carried out *through a regular review* of policies and strategies of the Contracting Parties for combating air pollution including long-range transboundary air pollution, *as well as the development of further co-operation in problem areas* within the scope of the Convention... The Executive Body *shall* carry out its work in accordance with Article 10 of the Convention... Accordingly, *the Work Plan* of the Executive Body *comprises the purposes and action to be taken within the...* [five] major work areas." (These were I. Strategies and policies; II. EMEP; III. Effects of sulphur compounds and other major air pollutants on human health and the environment; IV. Technologies for controlling emissions of sulphur compounds and nitrogen oxides; V. Costs and benefits of sulphur emission control.)

The structure of the Work Plan was straightforward and the link between "Purpose" and "Action" in each of the five areas served to demonstrate that "action-oriented conference diplomacy" is not just a high-sounding designation, but that it can and does have a concrete meaning. Thus the Work Plan provided that the Executive Body "should establish suitable procedures for consultations" which may in time promote the use of the important facility provided for under Article 5 of the Convention by the Contracting Parties concerned. (Attention has already been drawn to the wider significance of this facility for international co-operation.)

As regards the first work area, "*major reviews of national strategies and policies* for combating air pollution based on national submissions will be undertaken every four years... Besides sulphur oxides, the information may include, on a voluntary basis, reports on nitrogen oxides." This formulation would seem to imply that the supply of information on sulphur oxides is regarded as *obligatory*. The inclusion of nitrogen oxides took into account the proposals contained in the submission by Austria, the Federal Republic of Germany and Switzerland.

The second major work area dealing with monitoring and evaluation of the long-range transmissions of air pollutants, envisaged that *information on the relative importance on national and external emissions... will guide national authorities in setting appropriate local and regional permissible levels,* taking into account international implications of these levels". This observation highlights the essence of, and the ineluctable need for, international co-operation in this area.

As regards the fourth major work area, it was decided that while the work "will primarily be concerned with control technologies related to sulphur emissions, they will be extended to nitrogen compounds" (yet another response to the proposal by Austria, the Federal Republic of Germany and Switzerland).

In view of the difficult economic environment, when stringencies beset the introduction of intrinsically expensive technologies, especially in the less developed countries of the region, action to be undertaken in the fifth major work area, could in time become of great value to all Contracting Parties. The Work Plan provided that a Group of Experts on cost and benefit analysis should meet as soon as possible and embark on a number of continuing and priority tasks, such as the *study* (to be carried out by experts designated by interested Governments with the assistance of the secretariat) *of least costly* *combinations of control technologies* for different emission control scenarios starting with sulphur emissions. The purpose of this and related tasks was "to assist the Contracting Parties to make rational choices".

These few excerpts from the Work Plan will suffice to demonstrate its operational and "executive" character. The basic pattern and structure of the Work Plan was maintained and perfected by subsequent sessions of the Executive Body.

Résumé of results: a promising start

The inaugural session of the Executive Body proved to be a productive and promising one. To the extent that East-West political differences of a recurring nature connected with the status of the Western part of Berlin obtruded themselves upon the proceedings, they did so in an almost predictable and "routine" manner, without leading to extraneous controversy or polarization. It seemed that the ECE Governments had indeed decided not to let political problems interfere with the work on which the Executive Body had embarked. The importance of its activities was increasingly grasped by public opinion thanks to greater awareness of the growing and visible danger to the environment from air pollution not only in Europe and North America, but also in other areas of the world where industrialization and urbanization were on the upturn. It also seemed that despite the work on the abatement of air pollution which was going forward under the auspices of other intergovernmental bodies, including those of the subregional variety, the ECE Governments realized that a well-conceived and agreed regionwide framework and a common programme were not only consistent with subregional endeavours but could actually provide an impetus to action at that level.

Thus, while nothing is perfect in human affairs, and *a fortiori,* in politics and diplomacy, the end-result of the follow-up action after the High-level Meeting was, on the whole, satisfactory. An institutional mechanism endowed with a high degree of autonomy and executive power, derived from an international legal instrument and anchored in the ECE, an old-established United Nations regional body dedicated to co-operation between countries having different economic and social systems in its region, had been put in place. The Governments of the Signatory States and the Contracting Parties had demonstrated not only their goodwill but their eagerness to set in motion a process of concerted multi-level action to arrest and to abate long-range transboundary air pollution. Fixing an approximate time-target more than a decade ahead, they had agreed on a detailed strategy to decrease air pollution to an extent which would be felt by the population of the entire region. It is to be hoped that progress towards this goal will gradually become more and more visible over the years, and that the public at large will be kept informed of progress so that it can not only follow national developments but be made to see that national efforts form part of a joint regionwide and ultimately global action by Governments and citizens of States under the aegis of the United Nations.

NOTES AND REFERENCES

CHAPTER X

1. No "official" List of Participants with an indication of the status of members of delegations was issued, apparently for reasons connected with the letters transmitted to the Chairman of the Executive Body by the delegations of the USSR, France, the German Democratic Republic and the Federal Republic of Germany. See report of the first session of the Executive Body, ECE/EB.AIR/1, annex V, concerning

the question of the legitimacy of the establishment of the Federal Environmental Agency in the western part of Berlin under the Quadripartite Agreement of 3 September 1971. This problem was raised at other meetings forming the conference process under investigation, including the two sessions of the IEB.

Two Contracting Parties, Iceland and Ireland, did not attend.

2. Press release ECE/GEN/20. Italics added.
3. ECE/EB.AIR/1, para. 11.
4. Two items of the agenda (i.e. Financial issues; and Work plan) were assigned to an *ad hoc* sessional working group which met simultaneously with the plenary meetings of the EB, thus expediting the proceedings.
5. When establishing the Sessional Committee the EB also unanimously elected a Chairman and a Vice-Chairman of that body.
6. ECE/EB.AIR/1, para. 13.
7. *Ibid.*, para. 14.
8. *Ibid.*, para. 9. Italics added.
9. Press release ECE/GEN/20.
10. ECE/EB.AIR/1, para. 16.
11. *Ibid.*, para. 20 Italics added.
12. *Ibid.*, para. 22.
13. *Ibid.*, para. 23.
14. *Ibid.*, para. 25.
15. Italics added. See Final Recommendations of the Helsinki Consultations, Helsinki 1973, p. 22.
16. ECE/EB.AIR/1, para. 26. Italics added.
17. See Article 10. 4. Italics added.
18. ECE/EB.AIR/1, para. 33.
19. *Ibid.*, annex II, para. 2.
20. *Ibid.*, para. 3. For the adoption of the Protocol on Long-term Financing of EMEP on 28 September 1984, see chapter XII, pp. 182-183.
21. *Ibid.*, para. 40. Earlier the Executive Secretary had indicated that four professional posts would be required for 1984 and 1985, but that only three of them were funded from the regular ECE budget. The funding of the fourth post by UNEP was to be discontinued at the end of 1983. A redeployment of posts would not be feasible. The Executive Secretary therefore foresaw no realistic alternative except funding that post by the Parties to the Convention (para. 39).

CHAPTER XI

AFTER THE HIGH-LEVEL MEETING: WHAT NOW?

The "Concluding Document" of the Madrid CSCE Meeting

(*a*) *A new impulse?*

This author has repeatedly stressed that without the Conference on Security and Co-operation in Europe and its Final Act signed at Helsinki on 1 August 1975, there might not have been a High-level Meeting within the Framework of the ECE on the Protection of the Environment. The Helsinki Document provided the initial impetus and the substantive guidelines.

The Final Act's general dispositions on Principles guiding Relations between Participating States together with its second chapter (or "basket") dealing with co-operation in the field of economics, of science and technology *and of the environment* were intended to provide a multilateral political structure for, and impart the necessary political impulse to, long-term collaborative interactions in specific fields between the participating States, especially between those having different internal systems. Its underlying rationale was an amalgam of mutual advantage, common concerns, complementary interests, the expected benefits of stability and growth of confidence associated with more regulated and predictable arrangements for co-ordinated and joint activities, conducted in a spirit of détente, however defined. But the Final Act of the CSCE suffered from some limitations: e.g., the absence of an adequate provision and practical arrangement for a process of politico-military détente. This lacuna became increasingly evident. Being a regional accord, the Final Act also lacked competence and any institutional machinery for the reduction of world tensions engendered partly by the differing perceptions of the two major nuclear weapons States of their vital security interests and intentions, and by the effects of local and regional conflicts all over the globe. These were apt to become enmeshed in rivalries amongst the Great Powers.

The author of the present study has done his best never to lose sight of the direction of the workings of political forces which make up the climate surrounding conference diplomacy, whether positive or negative. The uniqueness of the process of "East-West" conference diplomacy which resulted in ECE's High-level Meeting on the Protection of the Environment and its implementation is that it unfolded under conditions of a markedly descending détente curve and the erosion of East-West contacts on the political plane, especially between the two major actors.

As will be recalled, the first follow-up CSCE meeting met at Belgrade from 4 October 1977 to 9 March 1978 and so coincided with the period of preparations for the High-level Meeting. The Belgrade meeting produced a "Concluding Document" which acknowledged that "consensus was not reached on a number of proposals submitted". Indeed the document was almost void of substantive agreement on further concrete steps to continue the multilateral process initiated by the CSCE, i.e. on how genuinely to deepen their mutual relations, to improve security in Europe and strengthen détente and confidence. However, agreement was reached by the participating States on the continuing political importance of the CSCE and of détente and on the need to continue the multilateral process through a series of meetings amongst their representatives, with the involvement of UNESCO and ECE in some of them.[1)]

The second CSCE follow-up meeting was scheduled to commence in Madrid on 11 November 1980, almost exactly a year after the holding of the High-level Meeting. While the Belgrade Meeting lasted about five months, with some interruptions, the Madrid Meeting, contrary to all reasonable expectations, went on (admittedly with about 10 adjournments, including one which lasted eight months, and other delays) for three years counting from the beginning of the Preparatory Meeting. Discussions proceeded in a highly strained political atmosphere; the negotiations on particular issues, especially relating to certain aspects of military and of humanitarian matters, which were perceived as highly sensitive, seemed interminable. The difficulties resulting from the insistence of some States on a strict linkage between the different components of the compromise package, delayed and complicated the situation still further. On several occasions the Madrid Meeting seemed on the verge of collapse, and the most that was expected of it by many observers was yet another Concluding Document, devoid of substance of the Belgrade Meeting type.

In the end, it proved possible, partly thanks to the unremitting efforts and initiatives of the group of Neutral and Non-Aligned countries,[2)] to reach consensus among the 35 participating States on a substantial final document which was adopted by consensus on 9 September 1983.

In addition to provisions for a continuation of the Helsinki process by means of a rather abundant and diversified programme of some 13 meetings as set out in a time-table covering the period 1983-86 (including such major gatherings as the ongoing multi-stage Conference on Confidence- and Security-building Measures and Disarmament in Europe), the Concluding Document contained a number of new substantive provisions and understandings grouped under the same headings as the pertinent chapters of the Final Act itself.

The chapter on co-operation in economic and related fields has direct bearing on the subject of this study. It was, apparently, the "easiest" to draft. Preliminary agreement on its text was reached relatively early in the proceedings of the Madrid Meeting — around the middle of 1981. In this, the second section of the Concluding Document the participating States reaffirmed their conviction that co-operation among them in the field of economics, of science and technology and of the environment *"contributes to the reinforcement of peace and security in Europe and the World* as a whole". In this spirit they reiterated their resolve to pursue and *intensify such co-operation* between one another, irrespective of their economic and social systems.[3)] These formulations are "re-affirmatory"', i.e. are expressions of a re-dedication to the task of deepening East-West economic and related co-operation proclaimed in the Helsinki Final Act. But they are not without significance under the political circumstances which prevailed at the time when the Concluding Statement was adopted, provided that the words would be followed by some deeds. The General Assembly, in its resolution 38/190 of 20 December 1983—Review of the Implementation of the Declaration on the Strengthening of International Security—welcomed *"the successful conclusion"* of the Madrid Meeting.[4)] Even for "small mercies" it is necessary to be grateful.

The Executive Secretary of the ECE was invited to address the Madrid Meeting. He used the opportunity to present an extensive "Review of ECE Activities pertaining to the Final Act of the Conference of Security and Co-operation in Europe" (subsequently circulated as document E/ECE/1024).

This contribution is mentioned in the fourth paragraph of the preambular section of the Concluding Document.

Though, admittedly, the second section of the Madrid Document (as distinct from the other sections) does not contain any major innovative provisions, it does embody a number of measures of a detailed and practical character combined with some refocusing of ongoing activities. The Economic Commission for Europe figures prominently in the Concluding Document in the context of the implementation at multilateral level of a number of activities such as the dissemination of comparable economic and commercial information and statistics, industrial co-operation, the elaboration of "studies and practical projects for the development of co-operation among member countries in the field of science and technology" and further work in the sensitive area of eliminating all kinds of obstacles to the development of trade.

In all these and several other activities ECE was expected to play an increasingly important role. In fact, it can reasonably be asserted that ECE had come to be regarded as the "chosen instrument" for the implementation of most of the multilateral provisions of an economic and related nature contained in the Concluding Document of the Madrid Meeting. This expectation and desire find expression in a separate passage (paragraph 16) which is worded as follows:

> "The participating States welcome the valuable contribution made by the ECE to the multilateral implementation of the provisions of the Final Act pertaining to co-operation in the fields of economics, of science and technology and of the environment. *Aware of the potential of the ECE for intensifying co-operation in these fields, they recommend the fullest use of the existing mechanisms and resources in order to continue and consolidate the implementation of the relevant provisions of the Final Act in the interests of its member countries* including those within the ECE region which are developing from an economic point of view."5)

The references to the work of ECE on the protection of environment and energy should be examined with some care.

(*b*) *The Concluding Document and the High-level Meeting on the Protection of the Environment*

The participating States welcomed "with satisfaction the important steps to strengthen co-operation within the framework of the ECE in the field of environment, including the High-level Meeting on the Protection of the Environment (13-16 November 1979)...".6) They recommended "the continuation of efforts in this field, including, *inter alia,* giving priority to the effective implementation of the provisions of the Resolution on Long-range Tranboundary Air Pollution adopted at the High-level Meeting; the early ratification of the Convention on Long-range Transboundary Air Pollution signed at the High-level Meeting;7) implementation of the recommendations contained in the Declaration of Low- and Non-Waste Technology and Re-utilization and Recycling of Wastes; implementation of decisions B and C of the thirty-fifth session of the ECE concerning the Declaration of Policy on Prevention and Control of Water Pollution, including Transboundary Pollution; and support in carrying out the programme of work of the ECE concerning the protection of the environment, including, *inter alia,* the work under way in the field of the protection of flora and fauna."8)

This passage dealing with ECE's work in the environmental field is the longest and most detailed in the second chapter of the Concluding Document.

That the negotiators in Madrid were happy to have a subject which did not cause any controversy, which added substance to the Document, and on which they could agree, is almost the impression gained. To the initiated, the text might have been improved by some updating, and its contents do not go one *iota* further than the decisions taken by virtually the same Governments at the plenary sessions of the ECE. However this closely negotiated Document, of some political significance and potential and adopted by consensus at a high multilateral level after much difficulty, explicitly recognizes that the High-level Meeting constituted an "important step" taken to strengthen co-operation within the framework of the ECE in the field of the environment. That recognition and the recommendation that the Meeting's decisions should continue to be carried forward bear out the assertion that the implementation of the decisions of the High-level Meeting were politically "sheltered", and that the possibility of further development of work, especially regarding the prevention and control of transboundary water pollution *at policy level,* should not be excluded.

(c) *The Concluding Document and the question of region-wide co-operation on energy*

A separate paragraph (9) of the economic chapter in the Concluding Document dealt with *energy* in the following terms:

> "The participating States recognize the increasing importance of co-operation in the field of energy, *inter alia* that of a long-term nature, *on both a bilateral and multilateral basis.* Welcoming the results so far achieved through such endeavours and *in particular the work carried out by the ECE they express their support for continuing the co-operation pursued by the Senior Advisers to ECE Governments on Energy aiming at the fulfilment of all parts of their mandate".[9]

Although no commitment whatsoever was involved in that agreed statement as to the possibility of a high-level meeting on energy, the general tone seemed somewhat more positive than the plainly negative attitudes adopted by most Western Governments at the thirty-seventh and thirty-eighth sessions of the Commission held before the adoption of the Concluding Document of the Madrid Meeting.

One obvious inference that can be made in the light of the statement on energy is that despite the then *ad hoc* nature of the Senior Advisers to ECE Governments on Energy, a systematic continuation and even an intensification of ECE's work on general energy problems, including matters which lend themselves to closer intergovernmental co-operation "on both a bilateral and multilateral basis", was not likely to be questioned.

"Support" for co-operation pursued by the Senior Advisers, *"aiming at the fulfilment of all parts of the mandate",* is, of course, entirely incomprehensible to a member of the public who wants to acquaint himself or herself with an important political text agreed at ministerial level by 35 Governments on how to improve East-West relations at a difficult, unstable and perilous juncture in world affairs. But the attentive readers of this study will by now know that the third (and last) part of the mandate contained in paragraph 2 (c) of ECE's decision B (XXXIV) provided that ECE's new *ad hoc* Principal Subsidiary Body on Energy was, *inter alia,* "to examine problems related to a possible high-level meeting on energy organized within the framework of the ECE". The readers will also know that such examinations have taken place after substantive preparation by the secretariat, in the course of the sessions of this

Body,[10] but that the mandate provided for the examination of *problems rather than of specific topics*. Therefore those opposed to the idea of a high-level meeting on energy could interpret the understanding on this point reached at Madrid as being limited to having further such exploratory discussions and could argue that this would meet the terms of the understanding. Another argument advanced was that the measure of success of a high-level meeting on energy depended upon the "fulfilment" of the other two parts of the mandate, and especially of the first provision which requires the Senior Advisers on Energy to undertake an extensive exchange of information, views and experiences between member States on general energy problems, including energy resources and national objectives and policies in this area.

For the Commission to be in a position to decide upon the timeliness and suitability of a meeting, at an appropriate policy and decision-making level, on aspects of energy (one of the most challenging economic problems facing the world economy), the requisite factual and analytical "foundations" are regarded as a pre-condition. The degree of adequacy of the preparation of those foundations is ultimately a matter of political judgement and of politicial will, both individual and collective, of the Governments involved. The painstaking accounts of the relevant discussions at ECE's thirty-eighth session indicate, to put it as impartially as possible, that it was not merely substantive reasons which has thus far inhibited progress, but also, and increasingly, the political considerations which had intervened.

Effects of the Concluding Document of the Madrid Meeting on the thirty-ninth session of the ECE (spring 1984)

The thirty-ninth session of the ECE was held from 3 to 14 April 1984 and was the second major multilateral East-West meeting to take place after the adoption of the Madrid Document.[11] There can be no doubt that the political atmosphere at the session was markedly better than at the preceding sessions, although it would be premature and far-fetched to attribute this to any far-reaching change for the better in East-West, including US-USSR, relations. It may be more reasonable to ascribe the amelioration of ECE' political "micro-climate" to a strong desire of many countries of both parts of Europe to dissociate, *to the extent possible,* economic and related co-operation from the continuing tensions and lack of agreement in the politico-military domain.

The Executive Secretary, in his opening statement[12] observed that "not only has agreement been reached on the agenda without undue difficulty, but in many meetings, both in capitals and here in Geneva, I have sensed a widespread willingness for intensifying the useful work already under way *and to search for innovative approaches for the future"*. He considered that the CSCE *"has again provided important inspiration to the Commission in the form of the Concluding Statement of the Madrid Meeting..."*.[13]

Indeed, the tone of the general debate was, on the whole, rather restrained but, as could have been expected, the problem of the effects of political and military tensions on economic relations was not passed over in silence. "Delegations welcomed the adoption of the Concluding Document of the Madrid Meeting... which they considered balanced and realistic with positive impulses to ECE's activities. The... Document was further evidence of the desire of States participating in the CSCE to find concrete and practical forms of co-operation." However, some delegations "drew attention to prevailing tensions in the region, which, in their view, endangered détente, notably because of the deployment of nuclear missiles in western Europe. *In this situa-*

tion it was in the general interest to maintain and intensify economic cooperation notably by implementing without delay the provisions of the Madrid Concluding Document. Other delegations disagreed with this argument and contended that ECE was not an appropriate forum to discuss such matters, which were extraneous to its agenda. These delegations furthermore stressed that the Madrid Concluding Document was a balanced whole and that progress in one area could not be achieved separately from that in other areas."[14)]

The mounting danger of air pollution in the ECE region: new initiatives by some Contracting Parties

Environment maintained its "pride of place" as one of the major sectors of ECE's activities which continued to show significant and steady progress, "notably as a result of the entry into force of the Convention... which had now been ratified by almost all member countries of the Commission".[15)]

Two governmental initiatives taken during the period under review to combat the problem of acid rain were reported to the Commission at the session. Because of their significance as a somewhat novel feature of conference diplomacy they merit comment. The first initiative had given rise to an International Conference of Environment Ministers on Acid Rain, held in Ottawa from 20 to 21 March 1984.[16)] Ministers of 10 ECE countries which had all signed the Convention on Long-range Transboundary Air Pollution, *committed themselves,* as the Final Communiqué of the Conference put it, "to undertake reduction of national annual sulphur emissions by at least 30 per cent as soon as possible, and at the latest by 1993.... Effective reduction in sulphur emissions beyond the agreed 30 per cent is or may prove necessary as environmental conditions warrant. Effective reductions of emissions of nitrogen oxides from stationary and mobile sources as soon as possible, but not later than 1993, will be undertaken by these countries." The delegations which had drawn attention at the thirty-ninth session to the Ottawa Conference "urged other Signatories of the Convention to make similar commitments".[17)] It should also be noted that in the last paragraph of the Declaration of the Ten Governments, which was adopted by the Ottawa Conference, the "Signatories further stress the necessity of establishing within the framework of the Convention additional action for the purpose of achieving substantial reductions of emissions of other pollutants, especially nitrogen oxides".

The second initiative, clearly *unilateral,* to hold a "multilateral environmental Conference" was announced at the session by the delegation of the Federal Republic of Germany. The Conference was to be convened by the Government of that country towards the end of June 1984 in Munich, and was to address itself to causes and prevention of damage to forests and water through air pollution.

In general terms, initiatives of this kind are constructive, as there has been occasion to remark with regard to the very first such initiative, viz., the Stockholm Ministerial Conference on Acidification of the Environment, the Conclusions and Recommendations of which made a contribution to the deliberations at the first session of the Executive Body under the Convention. The Ottawa and Munich Conferences can be regarded as responses, first, to the absence of a specific quantitative commitment for emission reduction from decision A (I) of the Executive Body and, second, to growing public concern over the harmful effects of acid precipitation, including those of a transboundary character. There was a strong feeling that as many countries as possible should commit themselves, at least in political terms but *expressis verbis,* to the 30 per cent reduction target by 1993. In this context, it must be noted that whereas the invitation to the Stockholm Conference was addressed to all Signatories of the ECE Convention, this was not the case with the Ottawa Conference at which participation was deliberately limited to Contracting Parties who not only wished to proclaim their commitment to work towards a specific, i.e. 30 per cent reduction target and to urge other Contracting Parties and Signatories to do likewise but who were also *ready to enter into a legally binding undertaking* to this effect under the 1979 UN Convention. Presumably Canada (which was in a rather special situation) offered to host the gathering. These countries came to be known, amongst environmentalists, as members of the "Club of Ten".[18]

As regards the second initiative, when attention was drawn to the Conference which was to take place in Munich, in the summer of 1984, it was stressed by the representative of the Federal Republic of Germany that (as in the case of the Stockholm Conference) *"all Signatories of the Convention had been invited"*.[19] The report of the Commission on its thirty-ninth session records that "one delegation expressed its country's willingness to participate in the Munich Conference providing it was held under ECE auspices...".[20] The Munich Multilateral Conference, being a unilateral initiative, did not and could not form part of ECE's approved programme of work. It could not, therefore, institutionally be regarded as being similar to the ECE seminars included in the Commission's programme. These were held in various locations in response to invitations from individual host ECE countries and broadly operated under ECE's rules of procedure; they were considered to be ECE meetings. In the case of the Munich meeting it was the inviting Government which had to decide whether and, if so, to what extent it wished the Conference to be institutionally associated with the ECE.

In view of the potential importance of the Munich Conference for East-West co-operation in general and for the further work of the Executive Body of the Convention in particular, it was of some importance that the question of the modalities of a meeting to be convened unilaterally should be clarified at the Commission's thirty-ninth session rather than be left in abeyance, so that a satisfactory response to the invitation of the Federal Republic of Germany addressed to all Signatories could be ensured.

As a result of informal consultations the Commission adopted a separate decision—E (XXXIX)—on this question, a rather novel procedure. As a result, presumably, of the wish of the inviting Government to emphasize the link of the Munich Conference with the Convention and its Executive Body, and the general wish to ensure a region-wide participation of the maximum number of Signatory States at that gathering, a felicitous formula was worked out whereby, without in any way changing the essentially national, i.e. unilateral origin of the Conference, *it was explicitly related to and linked with a multilateral UN conference process*. Furthermore, the decision requested the Executive Secretary *to participate and to co-operate as appropriate with the Government of the Federal Republic of Germany in the organization, preparation and the proceedings of the Conference and its Preparatory Meeting"*; the Commission also invited *the Executive Body of the Convention... to consider the report of this Conference* at its second session, and requested the Executive Secretary to inform the fortieth session of the Commission of the results of the Conference".[21]

This decision represents a most useful and innovative precedent for other situations where it appears desirable *to achieve maximum co-ordination be-*

best copy available

tween unilateral and multilateral conference diplomacy, especially in an East-West regional setting. In the event, the Munich Conference proved to be a distinctly productive meeting. It highlighted the growing importance of environmental protection and of region-wide co-operation in this field. The fact that virtually all Signatories of the Convention were in attendance considerably enhanced the international authority of the Munich Conference.

The prominence of environmental topics

The general and specific discussions on environmental matters which took place at the Commission's thirty-ninth session showed that ECE was fully "on course" in its response to the recommendation contained in the Concluding Document of the Madrid Meeting. ECE was resolved to continue its efforts in the field of environmental protection, and indicated the tasks which should be given priority. The extent of the work can be gauged not only from the pertinent report of the SAEP (ECE/ENV/43), and that of the first session of the Executive Body (ECE/EB.AIR/1), but also from the report submitted by the Executive Secretary to the session on the implementation of Commission decision B (XXXVIII)—Air pollution. In it (E/ECE/1072) the Executive Secretary summarized the various activities in this field, such as the ratification of the Convention; the results of the first session of the Executive Body; the implementation of the Convention with respect to strategies and policies; EMEP; the effects of long-range transboundary air pollution and control technologies; and the costs and benefits of sulphur emission control.

In the general discussion many delegations stressed that adequate resources must be made available for these activities.22) The Executive Body's decision to work towards the elaboration of a formal instrument to provide for long-term funding of EMEP based on an equitable cost-sharing system was noted with particular interest. The examination of the Commission's programme on environment showed that in addition to activities under the Convention and the work of the SAEP, several of ECE's Principal Subsidiary Bodies were engaged in activities bearing on environmental protection. Many delegations welcomed such activities as the preparation of a strategy for environmental protection and rational use of natural resources in ECE countries covering the period up to the year 2000 and beyond.23) During the more detailed examination of the work of the SAEP some delegations mentioned that such a strategy could "*serve as the basis for possible legal instruments for the rational utilization of natural resources*".24)

It was also stressed that the relevant sections of the Concluding Document of the Madrid Meeting "provided an additional basis upon which to strengthen joint activities" in this field.25) As regards the Declaration on Low- and Non-Waste Technology and Re-utilization and Recycling of Wastes adopted by the High-level Meeting, broad support was given to the programme of work in this area, and the progress on the compilation of the Compendium on Low- and Non-Waste Technology was welcomed.26)

The delegation of Bulgaria "underlined the *key role of the Commission in all-European co-operation in the field of environment resulting from the CSCE and furthered by the High-level Meeting within the Framework of the ECE on the Protection of the Environment*".27)

The preoccupation of the Commission with a subject which was causing increasing concern to the public in many countries was reflected in the decisions adopted at the session. Out of 13 such decisions, four addressed themselves explicitly to aspects of environment, while two further decisions were of relevance to it.

Decision D (XXXIX)—Air pollution—was entirely concerned with the follow-up to the ECE Convention. In it the Commission expressed its conviction that the Convention and its Executive Body "represent an appropriate framework for strengthening co-operation in this field". Decision A (I) adopted by the Executive Body was regarded as "a first step towards air pollution reduction". It should be noted that the Commission made a distinction between "the principles and provisions of the Convention" on the one hand, and the "decisions and recommendations... of the Executive Body" on the other. As regards the former, the Commission appealed to the ECE Governments[28] "to implement" them "fully"; as regards the latter the appeal was merely to "take them into account". This distinction would seem to indicate that the Commission did not regard the decisions of the Executive Body of the Convention as binding, either for legal reasons or because the first crucial decision of that body, decision (A (I)), had lacked specificity.[29] In this connection, it should be noted that during the discussion on air pollution some delegations, when referring to that decision, emphasized the need for further progress in reducing and preventing air pollution, and pointed to the quantitative and time-targets to which the participants in the Ministerial Conference held in Ottawa had committed themselves. One delegation mentioned, *"as an alternative, the development of a legal document detailing reduction targets and corresponding time frames* which would become binding on the Contracting Parties to the Convention upon their accession".[30]

The Commission, by adopting decision D (XXXIX), once again unequivocally reaffirmed its collective will not only to maintain the work initiated by the Convention but to move forward in a dynamic manner and not to allow political or other differences to deflect it from this course. Decision D (XXXIX) augured well for the continuance of the EMEP system, an indispensable component of the Convention. Governments were asked "to assure financing of EMEP" for the current year "on a voluntary basis" and it was recommended "that efforts be intensified to elaborate an agreement for long-term financing". Finally, the decision on air pollution, by stressing "the urgency of intensifying efforts to arrive at *co-ordinated national strategies and policies in the ECE region* to decrease effectively sulphur emissions at national levels with possible extension to other pollutants", re-affirmed the concept of a joint enterprise which this author has always regarded as the principal goal of the Convention, and one which ought to be emulated in all those sectors of the region's economy where the pre-conditions or potentialities for such concertation of efforts exist.

The significance of decision E (XXXIX) which deals with the Munich Conference on the Causes and Prevention of Damage to Forests and Water Through Air Pollution in Europe and its potential importance for Conference diplomacy has already been commented upon. The reason for its wider significance resides in the role of unilateral initiatives to strengthen an international, i.e. multilateral instrument of a binding, though rather general character, and the possibilities for developing complementary and mutually supporting and reinforcing forms of unilateral and multilateral conference diplomacy.

The next decision adopted dealing specifically with environmental matters was decision L (XXXIX)—Monitoring and evaluation of transboundary water pollution. Progress in transboundary water pollution control in the region has been slow for a number of reasons (such as the existence of several drainage basins). Although not included amongst the subjects which called for a decision by the High-level Meeting it did figure prominently in the general debate at that Meeting which undoubtedly expedited the adoption by the Commission at its thirty-fifth session (April 1980) of the ECE Declaration of Policy on Prevention and Control of Water Pollution, including Transboundary Pollution. The setting-up of a system of monitoring and evaluation of transboundary water pollution is an obvious requirement of more effective strategies, both national and international, in this field. Therefore decision L (XXXIX) —Monitoring and evaluation of transboundary water pollution—is relevant in that the Commission, having registered the work accomplished so far in the area, "recognized the significance of the development and strengthening of co-operation of the ECE countries and *co-ordination of their activities* in water pollution control matters".[31] At the practical level of ongoing activities the decision noted "the invitation of the Government of the Federal Republic of Germany, to host, in the autumn of 1984, an ECE seminar on co-operation in the field of transboundary waters".[32]

Bearing in mind the relevant recommendations of the Concluding Document of Madrid, decision M (XXXIX) addressed itself—as its title "Co-operation in the Field of Protection and Improvement of the Environment" indicated —to further activities by ECE in the area as a whole, with special reference to work which resulted from the High-level Meeting. It welcomed, *inter alia,* the programme connected with the elaboration of a strategy for environmental protection and rational use of natural resources in the ECE countries up to the year 2000 and beyond; invited SAEP to pursue the implementation of the Declaration on Low- and Non-Waste Technology adopted by the High-level Meeting; recommended the Senior Advisers "to elaborate concrete proposals for their programme of work in the field of the protection of flora and fauna and their habitats in the region", another subject which had been singled out by the High-level Meeting as requiring attention at an international level; and called upon the Senior Advisers to intensify their activities as regards air pollution matters *not covered by the Convention.*"[33]

The two decisions which have a bearing on environmental protection and, in a more fundamental sense, on the problem of enhancing the capacity of the Commission to concert national policies in major sectors of the region's economy are decisions B (XXXIX)—An over-all economic perspective to the year 2000; and C (XXXIX)—ECE Declaration of Policy on the Rational Use of Water.[34] This pronouncement represents a companion-piece to ECE's Declaration of Policy on Prevention and Control of Water Pollution.[35] Though non-binding, these Declarations represent a significant step forward for both do envisage the co-ordination of national efforts in an increasingly important sphere of environmental protection. The second Declaration lays down the priorities of "a future-oriented national water policy" and, in so doing, recognizes "the vital need for further developing and enhancing international co-operation and for improving co-ordination of efforts in ECE countries to formulate and apply strategies of water demand management for coping with limited water supply...". National and international action taken in pursuance of both Declarations will need to be monitored carefully in order to determine whether they prove adequate to solve the problems of prevention and control of water pollution and ensure an effective application of consistent policies on the rational use of water, *or whether additional efforts at a higher level of national and international policy-making* appear to be required.

Prospects for further high-level meetings

One of the reasons for including in this study an account of relevant developments at the Commission's thirty-ninth session is, of course, to see whether, as a result and in the light of the adoption of the Concluding Document of the Madrid Meeting (and, more particularly, of the references in that Statement to energy), any movement towards consensus concerning the possibility of convening high-level meetings on transport and energy within the framework of the ECE, patterned on the High-level Meeting on the Protection of the Environment, could be discerned.

Briefly, no such consensus was achieved. The question of a high-level meeting on transport was not even raised in the course of the general debate. However, during the detailed discussion of the activities of ECE's Inland Transport Committee *there was general recognition of the increased need for the Committee to concern itself with the interrelationship between transport trends and transport policy*. However, the report does not contain any reference during that discussion to the need of holding a high-level meeting.36) As regards energy, many delegations which took part in the general debate, welcomed the Commission's continuing work in this field. It was noted however, that there had been no consensus on the convening of the fifth session of the Senior Advisers on the Energy. "Some delegations urged that the meeting be convened as soon as possible and that the Senior Advisers be allowed to carry out all parts of their programme; they reiterated their proposal that energy questions should be the subject of a high-level meeting. Other delegations stressed that if the meeting was to serve a useful purpose it should be constructive and aim at concrete activities within its programme of work."37)

No decision dealing specifically with energy was adopted by the Commission at the conclusion of its thirty-ninth session. However, in the traditional resolution on the work of the Commission as a whole and its future activities-resolution 1 (XXXIX), the Commission devoted one paragraph (12) to energy in which it recognized the importance of the co-operation in this field in the ECE region, took note of the Executive Secretary's report on the subject (E/ECE/1073), and invited him "to pay due attention to the activities of the ECE in this direction"—a somewhat "thin" consensus. In the preceding paragraph, the Commission, in a similar vein, had recognized the importance of the development of transport for the economies of the ECE member countries and of the activities of the Inland Transport Committee, including those related to forecasting international traffic. The resolution did not address itself to the question of strengthening ECE's political authority.

As stated on repeated occasions, the objective of the present study made it necessary to trace, systematically and—alas—occasionally in repetitive detail, the evolution of the attitudes of ECE Governments towards the feasibility of sectoral high-level meetings. After the holding of the High-level Meeting on the Protection of the Environment this scrutiny revealed, time and again, the lack of readiness of most Western countries to envisage the possibility of other such meetings which this author ascribed mainly to the deterioration, at the political level, of East-West relations. On the other hand the study has recorded that the country which had taken the original initiative and other Eastern countries which had supported it had continued to press almost monotonously for a positive exploration of the possibility of further high-level meetings on major problems of regionwide co-operation in energy and transport. But while the delegations of Western countries carefully refrained from pronouncing themselves on the question of further high-level meetings, thus maintaining, in effect, their negative stance, the representative of the USSR, Mr. V.P. Maltsev (the then First Deputy Minister for Foreign Affairs), in his statement delivered on 4 April 1984, addressed himself to this question in the following terms:

> "Several years ago the Soviet Union proposed in the ECE to convene all-European conferences on energy, transport and environmental protection. Today no one would deny that the holding of one of such conferences, namely *the environment conference, has added a qualitatively new dimension to co-operation within the Commission in this field,* has enriched and expanded this co-operation and has attracted to the environmental problem the attention of the general public in the ECE member countries. The Conference itself and the follow-up work to implement the agreements reached by it, convincingly attest to the usefulness of such forums. Unfortunately, the holding of the other two conferences is being deliberately obstructed for political reasons, and it is known by whom. *We do not give up our proposal to hold European energy and transport conferences for we regard it as a long-term objective for the Commission. We shall wait till others realize the need for such conferences to stimulate co-operation in those areas. At the same time we stand ready to use various forms of co-operation with those who desire it in order to develop mutually beneficial ties in the fields of both energy and transport.* The main thing is the development of co-operation rather than its stagnation or, even more, it being artificially slowed down. And that is precisely what we have been observing recently in the ECE work in the domain of general energy problems confined, as it is, to half-measures at best... As to the question who stands to gain more from co-operation in the field of energy it should be emphasized that *we have all that is necessary to solve on our own any problems that may arise. At the same time we have never refused, and are ready as before, to make use of the advantages of the international division of labour....*
>
> "There is no need to dwell at length on the role of transport in the economies of the countries of the region.... It is no accident that this area of the Commission's work, though formally not a priority activity, has already become such in practice.
>
> "The state of transport systems in Europe causes justified concern in many countries... Accordingly, it appears highly urgent to work out a long-term programme of transport development in Europe, with particular reference to transport infrastructure that would serve the whole of Europe."

The above excerpts from the verbatim text, (circulated informally by the Soviet delegation in an unofficial translation during the session), indicate the continued interest of the USSR Government in, and its readiness to resume discussion and negotiation on the possibility of, convening high level conferences on energy and transport within the framework of the ECE. At the same time they embody a decision not to press the matter and a readiness to proceed with the further work in the two sectors at a lower policy-level, in the expectation that at some date in the not too distant future, the original Soviet proposal will be taken up again. This would require, especially in the domain of energy a re-assessment of long-term multilateral energy policies on the part of some countries. Whether this re-assessment occurs will depend not only on the general political climate and the degree of East-West confidence, but also on the experience gained as a result of the developing "various forms of co-operation", especially in energy, but also in transport, between all interested countries through bilateral and multipartite channels.

But the positive outcome of the first high-level meeting can be expected to have repercussions for the future evolution and orientation of the Commission's work. Politics are in constant flux: the political conditions which determine the nature and orientation of the Commission's work are apt to change for the better or for the worse rather than stand still. Therefore it would be wrong to say that the last word has been spoken on the future use of the model of high-level meetings designed to develop and co-ordinate national sectoral policies in a regulated and operational fashion. But the complexity and uncertainty of the present situation makes, by its very nature, any kind of forecasting even more difficult than it ordinarily is.

The quest for new endeavours in other sectors

For obvious reasons the impact of the Concluding Document of the Madrid CSCE follow-up meeting cannot be compared with that of the Helsinki Final Act. But, considering the continuing political tensions which characterized East-West relations at the time, it did produce some useful effects. As already mentioned, there was a visible reduction of political polemics in the discussions during the session. In its resolution on its work as a whole, the Commission reaffirmed that "full respect for all the provisions of the Madrid Concluding Document and of the Helsinki Final Act *can contribute towards the building of an atmosphere of confidence* in international relations, including economic relations", and recalled that the Document carried "implications for the future activities of the Commission".38) It also called upon ECE Governments to continue "to take full advantage of the potential of the Economic Commission for Europe *as an instrument for dialogue* and for strengthening economic relations and multilateral co-operation in Europe".39) The concepts of *ECE's confidence- and stability-building, and East-West dialogue-promoting potentials,* are not new; but the emphasis placed on them was obviously meant to be, and to be seen as, a response to the desire of ECE Governments to use the instrument of the Commission to improve the East-West relationship despite continued, if not increased reticence on the part of some Governments, lest East-West interactions exceed certain limits, and their reluctance to venture into the sphere of co-ordination and formulation of economic policies for the region as a whole. Trade and industrial co-operation, science and technology, environment, and (as already noted) transport and energy were singled out for special attention in this context.40) A separate decision—(A (XXXIX)) on Concentration and integration of the Programme of Work of the Commission—dealt with the way in which a series of concrete proposals "for new programme elements" in various fields were to be examined. These proposals had been made by the Executive Secretary in his report (E/ECE/1070), and were put forward on his own initiative but bore in mind the views of Governments on different aspects of ECE's programme of work expressed in reply to a questionnaire. In the same decision, the Commission also invited the Governments "to submit proposals to improve the efficiency of the work of the Sessional Committee."41)

Although the session took place in a calmer political micro-climate, the continuing conflictive situation between the two major powers and the two military alliances could not but impinge itself on the gathering. The effect of the Concluding Document of Madrid, the efforts of the secretariat, the collective political will of the participating Governments to keep the ongoing work of the Commission intact, and the almost surprising vigour and resilience of the co-operative interactions, especially in the sphere of trade between countries having different economic and social systems in the region, helped to sustain that will to use the Commission as much as possible. The Executive Secretary stressed that the ECE "must continue to be a dynamic and future-oriented body".[42)]

Yet ECE was faced with a dilemma. On the one hand, it was generally realized that the considerable potential of the Commission could be developed to set in train region-wide co-operative schemes of far-reaching significance and import. On the other, the political divisions precluded a consensus to bring about a truly qualitative change in ECE's work by enabling it to play a bigger role in the co-ordination of the national sectoral policies in the region, along the road charted by the first High-level Meeting held within the framework of the ECE.

A way out of the dilemma was sought by rendering ECE more responsive to emerging needs, by improving the quality of the exchanges of views on economic strategies through more purposeful and structured dialogues, by experimenting with innovative forms of action-ensuring conference diplomacy; all this presumably in the hope that if and when the political climate improved, the ECE would be able to develop its potential more fully, raise the level of its political authority and look afresh at the possibility of convening from time to time further high-level meetings. Meanwhile the work proceeding in the Executive Body of the Convention gathered speed.

NOTES AND REFERENCES

CHAPTER XI

1. For details and background see author's essay *The Helsinki Final Act Viewed in the United Nations Perspective, op. cit.*
2. i.e. Austria, Cyprus, Finland, Liechtenstein, Malta, San Marino, Sweden, Switzerland and Yugoslavia.
3. Concluding Document of the Madrid CSCE Meeting, para. 1. Italics added.
4. This resolution was adopted by 135 votes to none, with 12 abstentions.
5. Italics added.
6. Concluding Document, *op. cit.*, para. 13. Actually the High-level Meeting ended on 15 November 1979.
7. In point of fact, by the time the Concluding Document of the Madrid Meeting was adopted on 9 September 1983. the 1979 Convention had been in force for almost six months, i. e. since 16 March 1983.
8. *Op. cit.*, para. 13.
9. Italics added.
10. See ECE/ENERGY/2, paras. 36-43; ECE/ENERGY/4, paras. 23-31; ECE/ENERGY/6, paras. 18-33; ECE/ENERGY/8, paras. 17-28.
11. The first was the Conference on Confidence- and Security-building Measures and Disarmament in Europe which was convened in January 1984 in Stockholm.
12. Press release ECE/GEN/6.
13. *Ibid.*, Italics added.
14. E/1984/23, paras. 38-40.
15. *Ibid.*, para. 43.
16. The official designation of this gathering was "Canada-Europe. Ministerial Conference on Acid Rain". The former Canadian Minister of the Environment, Mr. C. Caccia, played a crucial role in the convening of the Ottawa Conference.
17. E/1984/23. para. 43.
18. The 10 countries were: Austria; Canada; Denmark; Finland; France; Germany, Federal Republic of; Norway; the Netherlands; Sweden; and Switzerland.
19. E/1984/23, para. 44. Italic added.
20. That delegation (Bulgaria) added that a further condition of its participation would be the observance of all provisions of the Quadripartite Agreement of 3 September 1971. This was an obvious allusion to the differences between Eastern and Western countries which had arisen on several occasions at meetings of the SAEP because the delegation of the Federal Republic of Germany had included officials from the Federal Environmental Agency whose location in West Berlin is regarded by the USSR and other Eastern countries as being contrary to the Quadripartite Agreement. The report of the Commis-

sion's thirty-ninth session records in this connection that the "delegation of the United Kingdom repeated the view of the three Powers that States which were not parties to the Agreement were not competent to comment authoritatively on its provisions". During the subsequent discussion of the work of the SAEP, Bulgaria reverted to this matter and stated that its participation would be contingent on receiving an official and satisfactory reply concerning the conditions it had mentioned in plenary. The delegations of the German Democratic Republic, the Ukrainian SSR, and the USSR associated themselves with the statement of Bulgaria. The delegation of the USSR specifically mentioned that this Conference should be held under the auspices of the ECE and the provisions of the Quadripartite Agreement of 3 September 1971 should be observed (E/1984/23, paras. 44 and 204). The formula "under the auspices of the ECE" appears to be a much looser and more flexible formula than, e.g. "within the framework of the ECE".

21. See E/1984/23, p. 83, for full text of decision E (XXXIX). Italics added.

22. *Ibid.*, para. 46.

23. *Ibid.*, para. 198. It is noteworthy that the delegations of Canada and Switzerland "expressed the opinion that the development of a strategy should reflect *the collective character of the region and not simply present national views"*. (Italics added).

24. E/1984/23, para. 198.

25. *Ibid.*, para. 197.

26. *Ibid.*, para. 200.

27. *Ibid.*, para. 204.

28. Strictly speaking, the appeal should have been directed to the Contracting Parties.

29. On this point, see chapter X—The nature of the decisions of the Executive Body.

30. E/1984/23, para. 274.

31. See E/1984/23, p. 87, for full text of decision E (XXXIX).

32, In the course of the discussion of the work of the Committee on Water Problems delegations welcomed the Seminar. "It was expected that this seminar would provide better insight into the problems of water pollution in international river basins, many of which were already severely affected." (E/1984/23, para. 252).

33. See E/1984/23, p. 88, for text of decision M (XXXIX). Italics added.

34. *Ibid.*, p. 75-82, for text of the two decisions B (XXXIX) and C (XXXIX).

35. See E/1980/28, decision B (XXXV).

36. The Commission's report noted that "several delegations supported the proposal which the representative of Czechoslovakia and the representative of CMEA had made... concerning the elaboration of a long-term programme for the development of transport in Europe until the year 2000, on the basis of scientific forecasts and appropriate technologies". The delegation of the United Kingdom (expressing also the views of the EEC) said that the Group of Experts on Transport Trends and Policy had studied that proposal, but that the proposal on forecasting needed to be submitted in a more thoroughly developed form. Other delegations drew attention to matters affecting basic elements of European transport policy such as infrastructure. Several delegations of transit countries stressed the great importance of the unification, at the European level, of the road, rail and inland water transport systems (E/1984/23, paras. 168, 169, 179 and 185).

37. E/1984/23, para. 54.
The continuing lack of the necessary consensus for convening the fifth session of the Senior Advisers on Energy became evident when the Commission (in the Sessional Committee) embarked on the separate consideration of energy (which figured on the agenda as a sub-item). The importance of the occasion was underlined in an opening statement by the Executive Secretary. It dealt with the current energy situation, recent activities of interest to the Commission and possible areas for future work, such as the convening of a Round Table on "Energy Transition in the ECE Region: Challenges and Opportunities"; and the convening of fifth session of the Senior Advisers (E/1984/23, para. 283). In the course of the discussion delegations referred "to the continuing importance of energy problems both for countries individually and collectively. Many delegations stated that work on general energy problems... should continue... Several delegations referred to the provisions of the Madrid Concluding Document on this subject. Some delegations stressed that work on general energy problems was most effective when it was focused on clearly-defined technical and economic issues where concrete results could be foreseen. They pointed out... that a fifth session of the Senior Advisers should be convened *to exchange information and experience,* to review and update their programme, and *to concentrate on technical solutions to energy problems".* The delegation of Belgium (expressing also the views of the EEC) stated that "a possible new meeting of the Senior Advisers... might provide an occasion to exchange and update information. It might also provide an opportunity for initiating a discussion on a work programme... *In this way the Senior Advisers would concentrate their expertise on technical aspects.* The delegation of Switzerland... expressed the view that although the mandate of the Senior Advisers on Energy could be modified only on the basis of a consensus, at this stage consideration of the third part of the mandate appeared to be premature" (paras. 284 and 285, italics added). Other delegations, however, stressed their view that the fifth session of the Senior Advisers on Energy should be held in 1984 within the framework of the Senior Advisers' current mandate. Much had been gained from international co-operation resulting from the first four sessions and the Senior Advisers should now meet to consolidate their work and to fulfil all parts of their mandate (para. 287). The delegation of the German Democratic Republic remarked that "at their fifth session the Senior Advisers *should have a co-ordinating role for work on energy carried out by the Commission and undertake conceptual work for long-term co-operation in the entire area of energy, with a view to implementing their mandate in all its parts"* (para. 291, italics added).

The delegation of the USSR stated "that general energy problems and co-operation in the energy field should be considered at the *sessions of the Senior Advisers, who should meet regularly in order to work more effectively on concrete technical projects.* The fifth session should be held in 1984" (E/1984/23, para. 288). This statement meant that the Soviet delegation was now mainly concerned to ensure the re-convening of the fifth session of the Senior Advisers in order to elaborate a proper programme and, if possible, their transformation into a permanent Principal Subsidiary Body, even if the Senior Advisers would not be expected for the time being once again "to examine problems related to a possible High-level Meeting" which anyhow was bound to be fruitless without an active participation of major western countries. Despite the support of most Western delegations for the re-convening the Senior Advisers on Energy on the tacit understanding that they would not embark upon the consideration of the third part of mandate of this body, no consensus on scheduling their fifth session could be reached. In this connection, the statement made by the delegation of the United States is relevant. This statement, as summarized in the Commission's report, reads as follow:

> "The delegation of the United States reiterated its broad commitments to co-operation in the energy field as expressed in the Concluding Document of the Madrid Meeting. The United States had participated actively in the *ad hoc* Meetings on Energy Conservation and on New and Renewable Sources of Energy in 1983, which had produced a useful exchange of technical information and agreements to continue work in specific areas. This kind of activity was consistent with the Concluding Document. The delegation *continued to believe that it was not appropriate to schedule meetings where there was no real prospect for a beneficial exchange and that progress must be made uniformly in fulfilling all the provisions of the Madrid Concluding Document.*" (para. 286, italics added). (In point of fact the fifth session of Senior Advisers on Energy took place in 1985 and the sixth in 1988).

38. E/1984/23, resolution 1 (XXXIX), p. 74, second preambular para. Italics added.
39. *Ibid.*, operative para. 1. Italics added.
40. Formally, the following areas of ECE's programme of work were considered as priorities: development of trade; science and technology; environment; and long-term economic projections.
41. The Sessional Committee was originally set up in order to provide an opportunity for delegations to scrutinize in detail the separate work programmes of ECE's subsidiary bodies; under present arrangements the Sessional Committee meets for part of the session concurrently with the plenary meetings. The Executive Secretary suggested that the Committee meet in advance of the full session.
42. E/ECE/1070, para. 14.

CHAPTER XII

NEW IMPETUS TOWARDS A MANDATORY EMISSIONS REDUCTION TARGET

The Munich "Multilateral Conference on the Environment"

The second session of the Executive Body for the Convention on Long-range Transboundary Air Pollution which took place from 25 to 28 September 1984 and made signal progress on the problem of reducing sulphur emissions, was preceded by what came to be known as the Munich Conference.

There can be no doubt that the "Multilateral Conference on the Causes and Prevention of Damage to Forests and Waters by Air Pollution in Europe", held in Munich from 24 to 27 June 1984 at a ministerial level and "organized by the Government of the Federal Republic of Germany in co-operation with the Executive Secretary of the United Nations Economic Commission for Europe" played an important role in ensuring this progress. In response to the invitation of the host country, the Conference was attended by 32 Signatories, including 29 (of the 30) Contracting Parties to the Convention as well as by a number of intergovernmental organizations.

The Conference was chaired by the Federal Minister for Internal Affairs of the Federal Republic of Germany, Dr. Friedrich Zimmermann. Mr. George Pavlov, Chairman of the State Committee for the Protection of the Environment of Bulgaria, acted as Vice-Chairman. The proceedings were conducted in four languages, i.e. the language of the host country (German) and the three official languages of the ECE (English, French and Russian). The documentation, including the Proceedings of the Conference (M 2/1 Info), was issued in quadrilingual versions. The Conference was held in public. It received wide publicity in the media of several countries, especially its final communiqué (M 12/1 Rev.) and its resolution of 27 June 1984 which referred to the growing number of countries ready to reduce their annual national sulphur emissons or their transboundary fluxes by at least 30 per cent by 1993 at the latest. Reference was also made in the media to a number of apparently useful bilateral contacts, especially between Eastern and Western countries which took place in the course of the Conference.

In his opening address, the Executive Secretary of ECE said that he was "deeply honoured that the Government of the Federal Republic of Germany sought at an early stage of preparation to associate the Executive Secretary of the Economic Commission for Europe with the Conference. The unanimous approval by the Commission at its thirty-ninth session of this form of co-operative relationship bears witness to the commitment of member countries to the objectives of this meeting. The ECE... has been engaged over the past decade and a half in intensive programmes in the field of the environment. There is a direct link, therefore, between this Conference and the work we are undertaking within the framework of the ECE."

In its comprehensive resolution of 27 June 1984, the Multilateral Conference on the Environment requested "that, at its second meeting, the Executive Body of the Convention, as a matter of highest priority, adopt a proposal for *a specific agreement* on the reduction of annual national emissions or their transboundary fluxes by 1993 at the latest" having regard to the fact "that a number of countries have committed themselves to implement reductions of national annual sulphur emissions by at least 30 per cent as soon as possible and at the latest by 1993...".[1)]

In his closing address to the Munich Conference, the Executive Secretary observed that, firstly, there obviously was, "among the Governments of the region, broad agreement on the nature and gravity of air pollution, as well as on over-all Commitment to intensify efforts to combat it". Secondly, "the dynamic process of international negotiations continues, broadening in scope, and this Conference has generated for it... new momentum". He was, "of course aware of, and concerned by, the impact of your work on East-West relations" and he fully shared the belief voiced by Chancellor Kohl in his greeting message, "namely, that the preservation of our environment for coming generations serves as a link between peoples in the East and the West. Under present conditions, when the economic and political climate is difficult, co-operative activities such as those undertaken, in the ECE and at this high-level Conference, become even more important. Moreover... co-operative efforts in one field tend to stimulate constructive international activities in other sectors as well. I am thinking, in this particular instance, of the East-West trade potential generated by international co-operation, which requires sophisticated technologies and equipment...".

Apart from the influence which it exerted, the Multilateral Conference on the Environment does (as was already indicated in chapter XI) undoubtedly represent a new type of supplementary, supportive and reinforcing East-West conference diplomacy, whereby, on the unilateral initiative of a Government, a multilateral and UN-linked meeting or conference—which, in the case considered, was deliberately held at a ministerial level—is convened with a view to developing and strengthening legally binding instruments concluded within the framework of a regional body of the United Nations.

Although, as the Executive Secretary remarked on the occasion of the opening of the Executive Body's second session "a strong concern for the rapid deterioration of forests and other natural resources stimulated the invitation by the Government of the Federal Republic of Germany", the prime motive for the convening of the Multilateral Conference was presumably the growing realization that decision A (I) adopted by the Executive Body at its first session was inadequate, because it lacked legal force and was devoid of a specific—i.e. quantified—target of sulphur emissions reductions. One of the main reasons for this weakness was that at the time of its adoption relatively few Contracting Parties were disposed to accept such specific commitments, *even of a legally non-binding nature.*

However, in the year which elapsed between the first session of the Executive Body and the Munich Conference, in the measure that the harmful effects of air pollution were better comprehended, and actually felt and seen, the number of members of the "Club of the 30 per cent" began to grow. In the Final Communiqué of the Multilateral Conference (document M 12/1 Rev.) "Ministers acknowledged that while in June 1983 nine States declared their readiness to reduce their annual national sulphur emissions or their transboundary fluxes by at least 30 per cent by 1993 at the latest, the number was 11 in March 1984 and they noted with satisfaction that several other States announced their readiness and intention at the Multilateral Conference on the Environment in Munich to reduce their annual national sulphur emissions or their transboundary fluxes by 30 per cent within the same period of time, so that their total number was as high as 18 in June 1984".

It was against this background that the Conference, in its resolution, called for a "specific agreement" on the reduction of sulphur emissions to be taken by the Executive Body at its second session. It can therefore reasonably be assumed that the main objective of the Multilateral Conference was to generate a "multilateral thrust" in this direction. This assumption is strengthened by the wording of the last sentence of the final communiqué: "The outcome of the Conference is expected *to give a major political impetus* to further national and international efforts in the field of air quality control policy".

The impact of the Multilateral Conference was virtually instantaneous. For on 27 June 1984, i.e. the day the Conference ended, the Bureau of the Executive Body met (in Munich). It requested the secretariat to include in the provisional agenda for the second session of the EB the elaboration of a "draft specific agreement on sulphur emission reductions"; to make the necessary arrangements to enable a working group for the elaboration of such an agreement to meet in the course of that session[2)], and to prepare a background document. In response to the latter request the secretariat, in the document made available for the Executive Body's second session, suggested possible terms of reference for the working group and set out some elements which might be included in the specific agreement. It did not, however, indicate the institutional form such an agreement might assume.[3)]

Towards the Protocol on the Reduction of Sulphur Emissions: the second session of the Executive Body

One of the items included in the provisional agenda of the Executive Body (ECE/EB.AIR/3/Rev.1) was "Multilateral Conference on the Causes and Prevention of Damage to Forests and Waters by Air Pollution in Europe" which further emphasized the significance of this gathering.[4)] In a brief paper (EB.AIR/R.9) the secretariat drew the attention of the Executive Body to those parts of the resolution adopted by the Conference and made available by the host Government to the Contracting Parties and Signatories to the Convention, which might have a bearing on its current and future activities. As can be seen from the summary (contained in the preceding section) the resolution adopted by the Multilateral Conference contained references to practically all substantive items on the provisional agenda. In his opening statement at the second session of the Executive Body, the Executive Secretary remarked that it was especially noteworthy that "11 of the 18 operative paragraphs of the resolution of the Munich Conference—adopted by consensus—refer specifically to the implementation of the Convention or the activities of the Executive Body.[5)] To the extent that the resolution contained agreed positions or desiderata on those items reflecting the concerted views of virtually all Signatories and Contracting Parties to the Convention, and formulated at a ministerial level, it follows that the resolution was bound to influence, *if not to predetermine,* the results of the proceedings of the second session of the Executive Body—a rather unusual situation in UN-based East-West conference diplomacy.

Thus, in accordance with the request contained in paragraph 4 of the resolution, the draft "Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Long-term Financing of the Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP)", elaborated as a result of the work done at two *ad hoc* meetings on the subject (EB.AIR/AC.1/2 and 4), was adopted by the Executive Body and opened for signature on 28 September 1984. In addition, the Executive Body further adopted a resolution on the subject. In it the Signatories to the Protocol "*shall endeavour,* pending the entry into force of the Protocol or pending its entry into force with respect to each of them, whichever shall be the later, to contribute to the financing of EMEP on a voluntary basis..."[6] (The combination of the adoption of an addition to the Convention in the form of a Protocol and a resolution intended to safeguard the functioning of a vital operational mechanism of the Convention without which it cannot function is reminiscent of the somewhat analogous formula employed at the High-level Meeting itself which proved so effective.) The Protocol on Long-term Financing of EMEP entered into force on 21 January 1988.

Decision A (II) on Reduction of nitrogen oxide emissions was likewise adopted by the Executive Body in the light of the recommendation to this effect, set out in paragraph 13 of the Munich resolution as is recalled in the preambular part of this important decision.[7] As it turned out, the first step towards a protocol on air pollution from nitrogen oxides had been taken. But the main progress achieved by the Executive Body was on the "elaboration of a draft Specific Agreement on Sulphur Emission Reduction" which constituted a key factor in the development of the Convention and which was at the centre of attention at the Multilateral Conference.

Since both content and form of the Specific Agreement were left open in the Munich resolution, the secretariat was asked by the Bureau of the Executive Body to prepare a note on possible elements of the Agreement and the draft terms of reference of a Working Group to elaborate "a draft formal instrument for a specific agreement" on the matter "to be submitted to the Contracting Parties in due time before the third session of the Executive Body of the Convention".[8] In the course of the discussion during the EB's second session before the setting-up of the Working Group, the Norwegian delegation referred to the fact that it had submitted to all Signatories *a draft protocol* on sulphur emission reductions, based on, and supplementing, the note by the secretariat (EB.AIR/R.7).

Once again it fell to the Norwegian delegation to take the initiative in declaring itself in favour of a legally binding instrument as a regulator of air pollution emissions. While several delegations concurred with the view that a specific agreement should be binding, some other delegations were of the opinion that the document should provide also for the countries in the process of limiting pollution but not yet in a position to commit themselves to a 30 per cent reduction of sulphur dioxide emissions by a fixed date. A number of delegations addressed themselves to the question of the pollutants to be covered. Proposals varied from inclusion of sulphur dioxide emissions only to the coverage of both sulphur dioxide and nitrogen oxides. One delegation suggested inclusion also of other pollutants, such as hydrocarbons or heavy metals. It was generally accepted, however, that the knowledge of means to combat air pollution caused by sulphur dioxide emissions was the most advanced, and it was agreed to solve at a later stage the question whether any commitment to control nitrogen oxide emissions should be added to the agreement on sulphur emission reductions, or whether such commitment should be the subject of a separate agreement. Two additional countries, Czechoslovakia and Italy, committed themselves to reduce their national annual sulphur emissions or their transboundary fluxes by 1995 and 1993, respectively (using 1980 emission levels as a basis for the calculation of reductions), thus bringing to 20 the number of Contracting Parties committed to such reductions.[9]

The Working Group on the Specific Agreement on Emission Reductions held its first session from 26 to 28 September 1984. It was "open-ended" and 24

Contracting Parties and Signatories participated. As regards the scope of the proposed "specific agreement" many delegations which took part in the Group suggested that it should be an *optional* agreement, the signature and entry into force of which would not depend upon initial acceptance by all Parties to the Convention. A number of other delegations expressed their preference for a flexible agreement acceptable to all Parties of the Convention.

With regard to the legal nature, form and title for the specific agreement, it was proposed that the specific agreement should be drafted as a protocol rather than as an amendment under Article 12 of the Convention. Accordingly, the Working Group proposed that the draft agreement might be called: Draft Protocol on Emission Reductions. The first version of the draft protocol was annexed to the report of the Group on its first session.[10] The Executive Body approved the report (EB.AIR/WG. 2/2) and invited the Working Group to continue its work on the basis of its mandate.[11] It was understood that the preparatory work would be concluded by the end of February 1985. On the invitation of the Government of Finland the third session of the Executive Body was to be held in July 1985, in Helsinki, i.e. on the eve of the tenth anniversary of the signing of the Helsinki Final Act.[12]

The decisive first move towards a specific and time-related *mandatory* target of emission reductions solidly backed by two-thirds of the Contracting Parties, and presaging a vital strengthening of the Convention had thus been taken.

The third session of the Executive Body: a high point in the development and implementation of the Convention

The venue and timing of the third session of the Executive Body were felicitous. Without the Helsinki Final Act there would have been no Convention. And it must have been deeply gratifying that, after the EB had secured the financial side of the functioning and improvement of the EMEP, without which the Convention could not operate, the second Protocol (which did much to "flesh out" the Convention's "framework")—the Protocol on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent as soon as possible and at the latest by 1993—was ready for signature at the session, and the work on tangible measures to reduce emissions of nitrogen oxides was accelerating.

The third session of the EB (held from 8 to 12 July 1985) in the capital of Finland marked therefore an important high-point in the development of the Convention. Consequently it was understandable that the session had a rather full attendance of the Contracting Parties and Signatories, UN-related bodies, and non-governmental organizations. A number of the Contracting Parties and Signatories were represented at ministerial level. The session's opening was honoured by the President of the host country.

The Acting Chairman (Mr. V.G. Sokolovsky of the USSR) "welcomed the President of the Republic of Finland, the Ministers of the Environment taking part in the session and all representatives". Measures on the "reduction of sulphur emissions or their transboundary fluxes by at least 30 per cent" represented, he stated, "qualitatively a new stage on the way towards the implementation of the Convention".[13]

ECE's Executive Secretary "stressed that the Protocol on the Reduction of Sulphur Emissions, the adoption of which was on the agenda of the present meeting was the beginning of a concerted movement intended to give additional momentum to [the] implementation of the Convention".[14]

The Minister of the Environment of Finland "recalled the... attention paid by the public to environmental issues, which were no longer restricted to scientists, but had become *permanent items on the agenda of even the highest political leaders*. The Ministers for Foreign Affairs of 35 European and North American countries, who would soon meet in Helsinki to assess the ten years of co-operation after the signing of the CSCE Final Act, would note that environmental protection was one of the fields where significant progress during the past years was undeniable... *Measures against air pollution* had assumed a *central position* in the co-operation within the framework of the Final Act". It was imperative to concentrate resources "on preventing further acidification and restoring the damage which had already occurred. The signing of the Protocol... was but a first step in this direction. All Parties to the Convention should be encouraged to sign this document".15)

The discussion of the draft Protocol showed that delegations viewed it "as a first important step".16) And experience suggests that, once the first step in a regulated and managed process of multilateral co-operation is taken, the inner logic of the need to go further tends to assert itself inexorably: "A number of delegations pointed out *the need to arrive at internationally concerted action also with regard to other air pollutants* of importance.... Special concern was expressed about photo-oxidants, and their precursors, NO_x emissions from both stationary and mobile sources and hydrocarbons".17)

"Some delegations... expressed regret for not signing the Protocol at present"18) giving various reasons. Reference was made in this regard to *"severe economic* constraints as one of the main causes for their countries not signing the Protocol at the present time", but these delegations stressed their intention *to undertake all feasible measures to control air pollution in their respective countries.*19)

After the discussion, the Protocol on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent was adopted. Twenty-one (out of a total of 35) Contracting Parties signed the instrument.20) It is, of course, regrettable that about one-third of the Contracting Parties to the Convention did not for varying reasons feel able to sign the Protocol, but, in the light of the above-mentioned statements, it is not unreasonable to expect that these countries will take account of its main provisions.

Every achievement of multilateral diplomacy in international co-operation can conceivably be bettered, but it was a notable accomplishment nonetheless, greatly strengthening the Convention, the authority of the Executive Body, the ECE and the United Nations. Eloquent proof of the determination of the Executive Body to continue the forward movement was its decision to set up a Working Group on Nitrogen Oxides "to prepare the necessary substantiation for appropriate internationally agreed measures and proposals aimed at the reduction of nitrogen oxides or their transboundary fluxes...".21) This formulation was clearly a compromise between the approach of those countries pressing for an expeditious elaboration and adoption of a further protocol to ensure substantial and legally binding reductions in air pollution by nitrogen oxides, and the view of those (less affected by the phenomenon or more concerned about the cost of the measures) which were reluctant to prejudge the issue. But it seemed that sooner or later a protocol dealing with this matter would have to emerge.

One further important result of the third session of the EB was its positive action on the document prepared by the secretariat in response to the EB's request at its second session (ECE/EB.AIR/4, paragraph 39). The secretariat had prepared an outline of a major review of strategies and policies in 1986 (EB.AIR/R.10). This was an essential task because of the urgent need to draw lessons from past experience and to develop scientific knowledge about long-range transboundary air pollution and thus be able to evolve effective means to confront a relatively new and not fully explored phenomenon. In such a situation an international focal point for pooling and concerting experience proved to be highly desirable. The provision contained in Article 7 of the Convention that the "Contracting Parties, as appropriate to their needs, *shall initiate and co-operate in the conduct of research*" was not only a desideratum but a legally binding commitment in a situation where research and policy have to evolve *in tandem*.

Attention has already been drawn to the operational and carefully timed nature of the activities organized by, and under the auspices of, the Executive Body, and designated as the "Work Plan" for the implementation of the Convention. Even a perfunctory look at that Plan adopted by the Executive Body at its third session, and especially at its methods of work and time-schedule, reveals a well thought-out, comprehensive and complementary operation covering all the areas included in the Convention, such as strategies and policies; the EMEP in its different aspects; effects of sulphur and nitrogen compounds, hydrocarbons and other major air pollutants on human health and environment; technologies for controlling emissions; cost and benefits of sulphur emission control; and promotion of the exchange of information.

Another notable feature of the programme is the sense of urgency as one of the Work Plan's motive forces.

The Contracting Parties and all those convinced of the need for a legally regulated multilateral co-operation, had every reason to be satisfied with the outcome of the EB's Helsinki session. It provided further and essential proof that the High-level Meeting within the Framework of the ECE on the Protection of the Environment had indeed been a success and that the follow-up process that it had engendered was now not only well launched but, having proven its viability, also solidly grounded in a sound institutional base.

* * *

Post Scriptum

Although the concluding date of the third session of the Executive Body was chosen as a sensible cut-off date for the coverage of this study, the author could not resist the temptation to add a brief post-scriptum on the highlights of the developments which have occurred in the work of the Executive Body during the last three years.

In the course of this period two further sessions of the Executive Body—the fourth (11-14 November 1986) and the fifth (17-20 November 1987)—were held. As was to be expected, the central issue at both sessions was the question of the regulation of nitrogen oxide emissions.

It was obvious that, in view of the urgency of this matter, many countries wanted to see the Working Group on Nitrogen Oxides not only study the substantive aspects but also step up, in parallel, work on the preparation of a draft Protocol. Despite differences of views, the Executive Body finally agreed on an enlarged mandate which spelled out that the Working Group was expected to elaborate the draft of such an instrument for consideration by the EB at its fifth session.[22)]

Another matter worth noting was the discussion of the first "Major Review" of Strategies and Policies for the Abatement of Air Pollution drawn up by the secretariat on the basis of information received from the Contracting Parties *and* Signatories to the Convention (EB.AIR/R.19). One of the main conclusions on trends in emissions called for intensified international action. The Executive Body decided that the final version of the review, containing the most recent information, should be published "with a view to giving it wide distribution".23)

The practice of individual Parties to the Convention hosting international meetings, which was discussed previously, was continued. An International Conference on Acidification and its Policy Implications, organized by the Government of the Netherlands in co-operation with the ECE, was held in Amsterdam (5-9 May 1986), as is recorded in the EB's report.24) The representative of the Netherlands suggested that another conference of this nature be held within the next three years. Perhaps therefore the commendable practice ushered in by the Munich Conference may become institutionalized.

With the work on the drafting of a Protocol on Nitrogen Oxides going forward, it was, as is normal in processes of UN-related negotiations of this type, largely a matter of time until the goal clearly desired by the majority of the Contracting Parties to the Convention would be reached.

The elaboration of any legally binding instrument which accommodates the interests of all concerned is bound to be a time-consuming operation. By the time the fifth session of the Executive Body was held in November 1987 the Chairman of the Working Group on Nitrogen Oxides was able to report that the Group "had started the elaboration of a draft Protocol". It "had agreed on the structure of the draft Protocol and on a number of Articles", although difficulties remained concerning obligations and exchange of technology. The Group's Chairman was, however, confident that consensus could be reached if the Group were authorized by the Executive Body to continue its work for one further session. As usually happens, "a number of delegations" were satisfied with the Group's progress, but "some other delegations" were not, stressing "the urgency of international action".25) The Executive Body requested the Group to continue its work and to hold its next session from 16 to 19 February 1988 in Geneva.

Earlier in its fifth session the Executive Body was informed that of the two Protocols signed under its auspices, the Protocol on the Reduction of Sulphur Emissions or their Transboundary Fluxes had entered into force on 2 September 1987, while the Protocol on Long-term Financing of the EMEP was to become "law" on 28 January 1988. A set of specific and precise "Guidelines for Reporting by Parties to the 1985 Helsinki Protocol" were agreed upon. The importance of fixed procedures for accountability on the implementation of the Protocol is evident.26)

The Executive Body's concern for "optimal efficiency and economy in the work of subsidiary bodies of the Convention" and its intention to take the necessary decisions on the matter at its sixth session at the end of November 1988, bearing in mind the comments of the Contracting Parties, is laudable, particularly at a time of acute financial stringency experienced by the United Nations. Besides, there is the ever-present trend towards proliferation of subsidiary bodies and their meetings, a propensity of multilateral diplomacy which must not only be closely watched but prevented in an intelligent manner.

In the light of the above, the appreciation expressed by the Executive Body "to all those Parties which had made contributions in cash or in kind to programmes implementing the Convention"[27] is particularly encouraging. The practice of this type of supplementary assistance is an added acknowledgement of the real benefits to be derived from the "regulatory" conference diplomacy operated by the Executive Body for the Convention on Long-range Transboundary Air Pollution.

The dynamic orientation of the Work Plan helps to bring about not merely a badly needed and mutually reinforcing co-ordination of two levels of research —national and international—into as yet inadequately explored environmental phenomena but also helps to ensure that it is the internationally planned and steered research activity that determines the over-all direction of the investigative work. The many worrying and dramatic examples of continuing environmental deterioration because of "acid rain" strengthen the growing concern of Governments and the public, and even a non-specialist can gather from the documentation emanating from the Executive Body that, under the combined influence of the follow-up process and that growing concern, research seems to have made considerable headway.

The ECE had begun to publish an increasing number of internationally conducted research studies prepared within the framework of the Convention on different and new aspects of air pollution, including its Air Pollution Studies series.[28]

In a press release dated 29 April 1988[29] the ECE secretariat announced that in the course of informal consultations held from 27 to 28 April 1988, attended by delegates of 27 parties to the Convention, consensus was reached on a Protocol to combat air pollution by nitrogen oxides (NO_X). This instrument is therefore expected to be formally adopted by the Executive Body at its next (sixth) session scheduled to be held from 31 October to 4 November 1988, some three weeks earlier than originally envisaged. As a first step, the Protocol would commit Signatories to a "freeze" of their NO_X emissions or transboundary fluxes by 1994 on the basis of 1987 levels.[30]

By making this addition on the salient developments which have occurred since the third session of the Executive Body[31] this author is now able to conclude the historic narrative on a hopeful note and with a better conscience. All that remains is to recapitulate and venture a few final remarks which may be of interest.

NOTES AND REFERENCES

CHAPTER XII

1. Italics added. Among other noteworthy features of the Munich resolution was the affirmation that "many problems can be solved effectively only through close international co-operation"; the recognition "that international co-operation in the important field of the protection of the environment contributes to the reinforcement of peace and security in Europe and in the world as a whole, which constitutes a significant factor for the preservation of the environment"; the awareness "that methods for the rational use of energy resources and for energy conservation constitutes a substantial contribution to the reduction of air pollution"; the recognition "that numerous methods for substantially reducing air pollution from stationary installations, in particular for reducing sulphur dioxide and nitrogen dioxide emissions, are already available" and "that effective measures are also available to achieve a drastic reduction of emissions from motor vehicles"; the agreement "that international co-operation, within the framework of the work programme of the Executive Body for implementing the Convention must be intensified"; the request addressed to the Executive Body "to adopt the Draft protocol on financing the co-operative programme to allow its earliest approval by the parties of the Convention"; the acceptance of the necessity "that the rational and economical use of energy be regarded as a prime objective of energy policy and contributes *inter alia* to the reduction of damage to forests, water bodies, ecosystems, crops and vegetation and materials including historical monuments"; the request "that

all political and economic decision-makers do their utmost to promote further energy conservation measures"; the request for a "continuation and expansion of the regular multilateral exchange of experience and know-how within the framework of the Convention and the competent bodies of the ECE relating to emission control reduction technology and research as well as increased bilateral co-operation in these fields"; the recommendation that "the Executive Body for the Convention at its second meeting... includes nitrogen oxides in its work programme"; the request that "in the framework of the Executive Body for the Convention and in the appropriate bodies of the Economic Commission for Europe, common strategies be developed towards a further reduction of pollutants in exhaust gases of motor vehicles by using the best measures available and economically feasible". The Conference, in its resolution, also devoted attention to the special situation in North America: it observed "that acid rain is a problem of major concern in North America which requires a joint Canada/USA solution". (For full text see document M 11/4. See also enumeration of relevant provisions of the resolution by the ECE secretariat (EB.AIR/R.9/Rev.1)).

2. See EB.AIR/R.7.
3. *Ibid.*, paras. 3-5.
4. In the course of the discussion under this item during the EB's second session, delegations commended the Multilateral Conference and its results. The delegation of the Netherlands drew attention to operative paragraph 18 of the resolution. In it the Conference requested that "to support the Executive Body for the Convention in executing its task in the field of exchange of information, countries should hold *international symposia regularly under the aegis of the UN Economic Commission for Europe to discuss most recent scientific information* related to acidification and long-range transboundary air pollution *and its policy implications*". The delegation of the Netherlands stated that it was considering an international symposium on this problem in 1986 (See report of the Executive Body on its second session, ECE/EB.AIR/4, paras. 23-30. Italics added).
5. See ECE/GEN/22, p. 3.
6. See report of the EB on its second session, ECE/EB.AIR/4, paras. 40-46. For texts of the Protocol and the Resolution, see annexes II and III to the report.
7. See ECE/EB.AIR/4, para. 101.
8. See EB.AIR/R.7, paras. 3-5.
9. See ECE/EB.AIR/4, paras. 14-18. The 20 countries at that time were: Austria; Belgium; Bulgaria; Byelorussian SSR: Canada; Czechoslovakia; Denmark; Finland; France; German Democratic Republic; Germany, Federal Republic of; Italy; Liechtenstein; Luxemburg; Netherlands; Norway; Sweden; Switzerland; Ukrainian SSR; Union of Soviet Socialist Republics (para. 18). The number was of some importance, for it represented exactly two-thirds of the number of Contracting Parties. As will be recalled, an amendment to the Convention, under article 12.3, "shall be adopted by consensus of the representatives of the Contracting Parties which have accepted it on the ninetieth day after the date on which two-thirds of the Contracting Parties have deposited their instruments of acceptance with the depositary".
10. See report of the Working Group on its first session (EB.AIR/WG.2/2, paras. 12, 24 and 25). The conditions for entry into force of a Protocol to a Convention are flexible.
11. See ECE/EB.AIR/4, para. 22. The adherence to this date was important. The delegation of Finland informed the meeting that "its Government was inviting the Executive Body to hold its next session in Helsinki and that the Government of Finland was prepared to cover the additional expenses caused by holding the third session of the Executive Body outside Geneva. The Executive Body highly appreciated the invitation, and agreed to hold its third session in Helsinki. As regards the date, it was agreed that the meeting could be held in early July 1985, "on the understanding that the preparation of the draft specific agreement on sulphur emission reductions be completed by the end of February 1985. If this were not the case, the Executive Secretary in consultation with the Bureau will convene the session at a later suitable date in 1985". The second session of the Working Group on the Specific Agreement on Emission Reductions was held in Geneva from 19 to 21 November 1984. (Its report is contained in document EB.AIR/WG.2/4.)
12. The invitation by the Government of Finland may have been prompted by the decision of the participating States of the CSCE (which figures as the last paragraph of the Concluding Document of the Madrid Meeting) "that in 1985, the tenth Anniversary of the signature of the Final Act will be duly commemorated in Helsinki".
13. Report of the Executive Body on its third session, ECE/EB.AIR/7, para. 6.
14. *Ibid.*, para. 7.
15. *Ibid.*, para. 8. Italics added.
16. *Ibid.*, para. 13.
17. *Ibid.*, Italics added.
18. *Ibid.*, para. 17. Italics added.
19. *Ibid.*
20. At the time of writing, no further Contracting Party has signed this Protocol which entered into force on 2 September 1987. Eighteen Contracting Parties ratified or otherwise accepted the instrument.
21. ECE/EB.AIR/7, annex III, Terms of reference of the Working Group on Nitrogen Oxides.
22. Report of the Executive Body on its fourth session, ECE/EB.AIR/10, para. 14. See also p. 13, annex I, Enlarged Mandate for the Working Group on Nitrogen Oxides.
23. *Ibid.*, paras. 19-22. In this connection it is interesting to note that, contrary to ECE practice, the Executive Body resolved that "unless otherwise decided, the reports of its annual sessions will be derestricted", i.e. circulated as General documents (para. 59).
24. *Ibid.*, para. 42.

25. Report of the Executive Body on its fifth session, ECE/EB.AIR/16, paras. 17-18.
26. *Ibid.*, annex I.
27. *Ibid.*, para. 55.
28. The author is aware of the view expressed by some observers that the growing activities of the Executive Body have led to a corresponding weakening or "emptying" of the programme of the Senior Advisers. But what surely matters is whether the ECE's work on the protection of the environment is progressing, and it is. Transboundary air pollution is only one specific though increasingly important field. The Senior Advisers do not seem to lack work. As part of a restructuring exercise, carried out by the Commission at a special session (9-10 November 1987), the SAEP was merged with the Committee on Water Problems to become a new Principal Subsidiary Body designated as "Senior Advisers to ECE Governments on Environmental ***and Water Problems***" (author's italics). Moreover, the Senior Advisers serve a useful role whenever a new topic relating to air pollution is not yet ready for action in the Executive Body (perhaps because it does not seem to be transboundary in nature) but can be better dealt with initially in the Working Party on Air Pollution Problems, one of the Senior Advisers' subsidiary bodies. When the topic seems ripe for action by the Executive Body, it would then presumably be transferred to it for further action. The EB's Group of Economic Experts on Air Pollution and the Senior Advisers' Working Party on Air Pollution Problems met jointly for their annual session at Geneva in mid-June 1988 (ECE/ENV/9), thereby underlining the need for co-ordination.
29. Press release ECE/ENV/8.
30. *Ibid.* At the sixth session of the Executive Body, held at Sofia, Bulgaria, the following 25 ECE countries signed, on 1 November 1988, the Protocol on the Control of Nitrogen Oxides (NO_x) Emissions or their Transboundary Fluxes: Austria; Belgium; Bulgaria; Byelorussian SSR; Canada; Czechoslovakia; Denmark; Finland; France; German Democratic Republic; Germany, Federal Republic of; Greece; Italy; Liechtenstein; Luxembourg; Netherlands; Norway; Poland; Spain; Sweden; Switzerland; Ukrainian SSR; USSR; United Kingdom; and United States of America.

    The Sofia meeting was presented with alarming new evidence of air pollution effects in Europe and North America. Mr. Gerald Hinteregger, ECE's Executive Secretary, said that it was encouraging to note from the review of the annual reports on implementation of the Convention by the 32 Parties to it "that total emissions of sulphur dioxides in the ECE region as a whole have indeed gone down from 80.7 million tonnes in 1980 to 63.6 million tonnes in 1986; i.e., by more than 20 per cent". (Press release ECE/ENV/15 of 8 November 1988.)
31. Among other environmental matters relevant to the High-level Meeting, reference should be made to the adoption at ECE's forty-third session (April 1988), of a Declaration on the Conservation of Flora, Fauna and their Habitats, as proposed by the SAEP (ECE/ENV/7).

    The Commission also approved at that session the "Draft Regional Strategy for Environmental Protection and Rational Use of Natural Resources in ECE Member Countries Covering the Period up to the Year 2000 and Beyond", elaborated by the SAEP (ECE/ENVWA/3/Add.1). Set against the specific economic and social features of region, the Strategy covers the main environmental problems and trends (atmosphere; inland waters and seas; soil protection and land use; forests; wild life and genetic resources; and wastes and toxic and hazardous chemicals). The document sets out the Strategy's objectives and the modalities of implementation, and specifies policy and programme responses to meet the goals. The Strategy acknowledges that "ECE member countries share with other United Nations member countries the responsibility for solving environmental problems of a global nature" (para. 136).

RECAPITULATION AND FINAL REMARKS

The purpose of the study

The purpose of this study is twofold. The first is to trace the origins and the unfolding of, as well as the follow-up to, a rather extraordinary and unprecedented regional United Nations Conference process in an East-West setting with a view to identifying its salient features. It is conceived and intended as a contribution to the historiography of the United Nations. The second purpose is to ponder on whether this process can be viewed as exhibiting the makings of a new "model" of conference diplomacy that might be used, under certain conditions, in other domains within ECE's purview and perhaps also in other United Nations forums.

The need for policy co-ordination between States

A fundamental assumption underlying the investigation is that as a result of unprecedented technological progress the very nature of international co-operation in the economic and related fields has undergone a profound and irreversible transformation cutting across national boundaries, the politico-ideological divide and the development gap. The consequences of these developments are only beginning to be understood. Interdependence of ever-growing complexity is not just a convenient slogan but hard reality requiring thorough and continuing study. The ties linking countries more closely together necessitate constant adaptation of national economic policies to the changes in the international division of labour, based not only on better mutual knowlege of others' trends, programmes and long-term aims, not only on exchanges of views and discussion in an international forum, but also on multilateral negotiations intended to achieve an optimum adjustment of national interests in an equitable manner. Only in this way can a greater consistency and complementarity of national economic and related policies be realized. Due to ever-growing specialization and the creation of entirely new products, especially in the "high-tech" area, sectoral policies and strategies have become key components of over-all national and international economic policies.

Moreover, in a situation of growing interdependence, the inner dynamics of multilateral co-operation at the regional level, including the dealings between heterogeneous partners, tend to move on from lower to higher forms of interaction. Exchanges of technical information and experience, for instance, often lead to parallel and sometimes even to joint research, followed by comparison and evaluation of results which may be conducive to the establishment of common standards and procedures. (In some cases the primary impetus to research emanates from an international centre.) The natural sequel is then to go on to a comparison of sectoral policies. Thus, ultimately and ineluctably, the stage is reached at which the question of a *rapprochement* of policies has to be faced. But in East-West interactions especially, the possibilities of some such *rapprochement* depend not just on the complementarity or communality of interests, but also, and in large measure, on the state of political relations which determines the extent of such a concertation, which may differ from case to case. These features and circumstances have to be taken into account in the conduct of UN-related conference diplomacy.

The High-level Meeting viewed as a conference process

This writer is fully aware that, particularly for those unfamiliar with the working practices of the United Nations, his deliberately detailed and documented record of the entire process of the High-level Meeting may not always have been easy to follow. The wood, so to speak, may not always have been clearly visible for the trees. A highly condensed recapitulation of the preceding historic narrative and the accompanying analysis may therefore not be out of place in this concluding part, even though repetition is unavoidable.

The initial impulse

The need for ECE to play a role in the shaping of the policy aspects of its sectoral and functional activities, thereby augmenting the effectiveness of its work as a whole, came gradually to be acknowledged. The concept of region-wide sectoral policies, which would overarch more closely-knit subregional arrangements between homogeneous partners and be linked with wider global policy designs, began to take root, at least as a legitimate goal.

A political impetus in this direction was generated by the adoption of the Helsinki Final Act of the Conference on Security and Co-operation in Europe on 1 August 1975. This document, in its preamble, referred to the motivation of the participating States "to improve and intensify their relations"; and in the chapter dealing with co-operation in economics, science and technology, and the environment, and containing provisions for new forms of East-West co-operation in these fields, the Final Act embodied four general and seven specific references to activities, including environmental matters, which might be undertaken or intensified within ECE. The section on environment included a statement that the participating States had agreed to the aims of co-operation in this sector, one of which was the taking of "the necessary measures to bring... environmental policies closer together and, where appropriate and possible, to harmonize them". This agreement proved to be of crucial importance in the preparations for the High-level Meeting.

The Executive Secretary's report (E/ECE/900) submitted to the first post-Helsinki plenary session of the Commission (held in the spring of 1976) on the future activities of the ECE in the light of the results of the CSCE envisaged new perspectives for co-operation through the Commission, preference being given to work on problems of major policy importance.

Genesis of the High-level Meeting

Viewed against this background it was therefore not surprising that the delegation of the USSR, which had over the years argued in favour of expanding the scope and raising the policy-level and content of region-wide economic co-operation in ECE, tabled a proposal at that session to hold "all-European congresses or inter-State Conferences" on questions of the environment, development of transport, and the energy economy. In its presentation of the proposal and also subsequently, the Soviet delegation made it clear that the representatives at such meetings should hold Government positions of ministerial or equivalent rank "which would ensure the implementation of the decisions taken". This proviso clearly indicated that in the view of that delegation, the nature of the decisions taken should be important enough in terms of policy-content to warrant the direct commitment of the Government as a decision-making centre regarding their execution. As originally envisaged in the proposal, the conferences would, strictly speaking, be held outside the

ECE, i.e. on an *ad hoc* basis, but in close association with the Commission and its secretariat.

Pre-conditions

The Soviet proposal was slow in getting off the ground. Many Western Governments were not prepared, at the initial stage, to take up a definite position and asked for time to consider it. The first decision taken by the Commission on the proposition at the thirty-first session indicated interest of member Governments in the proposal, and willingness to explore, and give their views on it. But some definite progress was achieved, though not without difficulty, at the thirty-second session in the spring of 1977. In its resolution 1 (XXXII), the Commission noted the view of the Executive Secretary in his report (E/ECE/911) that the authority of the ECE could be reinforced by high-level meetings properly prepared and held within the framework of the ECE at an appropriate moment subject to certain criteria. In the light of the discussion the subject chosen for a possible such meeting was environmental protection, "in which all countries faced the same problems and were searching for effective methods of control...".

Though no decision was taken at that session to convene a high-level meeting, the recognition that under certain circumstances an intergovernmental gathering of this type could be beneficial was in itself significant.

The agreed criteria which had to be met for a high-level meeting to be held provided that:

(1) It would require a precise and carefully prepared agenda;
(2) The subject-matter should require a high level of representation;
(3) Such a meeting should hold promise of important decisions; and
(4) The topics under consideration should be of concern to the region as a whole, and not lead to unnecessary duplication of the work of other international organizations.

But since some of the above criteria are clearly susceptible to differing interpretations, they can only be tested when applied to a concrete case by determining whether each criterion taken separately and all of them taken together are considered by the Commission as having been met. Such an agreement presupposes the presence of a political will on the part of the Governments to engage in negotiations at a policy level, a will strong enough to produce "important" results in terms of a modicum of concertation and harmonization of their national policies and strategies through co-operative action. Without such a will, the question as to whether or not the criteria have been met cannot be answered.

Institutional framework

Given the Commission's disposition not solely to envisage, but also to initiate the preparations for a high-level meeting on certain specific aspects of environmental protection carefully selected beforehand, the institutional advantages of holding the meeting "within the framework of the ECE", i.e. keeping all the stages of the conference process under one roof, so to speak, became pretty convincing and the Soviet delegation did not insist on its original organizational formula of an entirely autonomous conference.

The ECE had a permanent "legislative" forum—its annual plenary session—to convene the high-level meeting in question; it had a well-established Principal Subsidiary Body, the Senior Advisers to ECE Governments on Environmental Problems (SAEP), composed of highly competent experts closely associated with national decision-making, which would be the obvious "focal point" for making the necessary preparations. The ECE had an effective and dedicated secretariat endowed with specialized knowledge, experience in assisting delegations in their work, conference organizing and steering ability and access to the logistic conference support services of the United Nations Office at Geneva. The institutional anchorage of a high-level meeting in ECE also helped, by reason of the regular participation of other relevant international organizations in ECE meetings according to established rules, to ensure the avoidance of, or at least to minimize, duplication and superfluous institution-building after the meeting. Last but not least, this institutional arrangement was the most economical.

Need for thorough preparation

The first of the criteria—"a precise and carefully prepared agenda"—implies agreement on the general theme and on its narrowing-down to a limited and manageable number of issues or topics of common concern calling for consideration at a high level. Therefore, the drawing up of the agenda of the high-level meeting under review necessitated a multi-phase preparatory process of considerable intensity and depth.

A noteworthy feature of the meeting was the way in which that process was structured. A number of Governments remained reticent or undecided about the precise substantive scope of the meeting and of the final form and status of the decisions that might be adopted. The final decision to convene the High-level Meeting was taken in April 1979 (at the Commission's thirty-fourth session), only when all the preparations had been completed and after an almost last-minute agreement was reached that the principal document dealing with long-range transboundary air pollution was, after all, not to be a declaration of intent, but a convention, i.e. a legally binding instrument, (even if it belonged to the category of "framework" or "outline" conventions).

Preliminary preparations by the Executive Secretary

Because of the need for impartial guidance, the Commission had earlier invited the Executive Secretary to be in charge of the first phase of preparations. He was asked to submit two reports to the Commission's subsequent session, one on the results of his analysis of topics "which may be appropriate for consideration at a high-level meeting on the protection of the environment", and the other on the "modalities of organizing such a high-level meeting" (E/ECE/936 and 937).

The main objective of the Executive Secretary's analysis, contained in document ENV/R.67, was to narrow the choice of suitable topics by drawing up a consolidated and annotated list derived from (a) the list of "Fields of co-operation" set out in the section dealing with environmental matters of the Helsinki Final Act; and (b) the list of all the topics communicated to the Executive Secretary by the ECE Governments in response to his invitation. The consolidated list consisted of five subject areas, i.e. a manageable number, and proved to be of considerable practical assistance in subsequent preparations and negotiations (see table).

The Executive Secretary, in the light of the nature of the problem, of action taken at the national level, and of co-operation at the international level, analysed possible alternative types of decisions which could be taken by a high-level meeting. These included new administrative arrangements, a declaration

POSSIBLE TOPICS FOR CONSIDERATION AT A HIGH-LEVEL MEETING: PROCESS OF CONSOLIDATION

A **Fields of co-operation derived from the Helsinki Final Act***	B **Topics and subject areas suggested by ECE Governments***	C **Executive Secretary's consolidated list of subject areas with analytical commentaries**
a Control of air pollution b Water pollution control and fresh water utilization c Protection of marine environment d Land utilization and soils e Nature conservation and nature reserves f Improvement of environmental conditions in areas of human settlement g Fundamental research, monitoring, forecasting and assessment of environmental changes h Legal and administrative measures	(a) Transboundary air and water pollution (b) Low- and non-waste technology (c) Control of toxic substances and toxic wastes (d) Protection of endangered flora and fauna (e) Harmonization of environmental statistics (f) Use of chemical fertilizers and pesticides in agriculture (g) Improvement of the state of the environment in human settlements (h) Creation of a European research centre in the field of environment (i) Protection of fresh waters from pollution (j) The rational use of natural resources (k) Elaboration of environmental monitoring programmes (l) Utilization of secondary raw materials; recycling of industrial and municipal solid waste (m) Environment/development issues (n) Protection of national reserves, national parks, and architectural heritage (o) Uniform norms, standards and regulations for environmental quality (p) Co-operation in the field of manufacturing equipment used for the monitoring protection and improvement of the environment (q) Environmental education (r) Land use (s) Disposal of radioactive wastes (t) Air pollution from means of transport (u) Control of carcinogenic hydrocarbons (v) The effects of energy production and energy saving on the environment (w) Environmental health (x) Nuclear installations in border areas	A. Transboundary air pollution B. Low- and non-waste technology C. Transboundary water pollution D. Control of toxic substances and toxic wastes E. Protection of native flora and fauna and their habitats

* *For the sake of simplification subdivisions have been omitted.*

on joint action, a "framework" convention and a more specific convention. This analysis enriched the methodology of identifying common problems requiring international action and the range of regulatory machinery to deal with them.

Ultimate preparations by the SAEP and the Commission

The Commission at its thirty-third session (spring 1978), while not being able to reach consensus on the actual convening of the high-level meeting (which the proposal's antagonists were urging), agreed that further and detailed work by the Senior Advisers was needed. They were therefore asked to prepare "recommendations and concrete proposals for important decisions" to be submitted to a high-level meeting (1) on the two topics which seemed to have gained general support, i.e. transboundary air pollution, and low- and non-waste technology, but also (2) on any other topics enumerated in the Executive Secretary's report "on which the Senior Advisers may agree". The assignment given to the SAEP was thus not an easy one.

The period that followed—some eleven months—represents the principal and central phase of the entire conference process. In fact it englobed the second and the third stages of which any major conference process consists, i.e. the preparatory work for holding the conference, and the conference negotiations leading to decision-making. The SAEP, meeting in special sessions and groups in a long stream of successive gatherings, carried out, in effect, the functions usually entrusted to the preparatory committee of a conference and to its sessional bodies.

Apart from dealing with the "other topics" in a generally acceptable manner, the principal task of the Senior Advisers was to draft and reach a consensus on the content and the form of the draft decisions which the high-level meeting (if held) was expected to adopt on the two topics mentioned bove.

The Senior Advisers, many of whom were, above all, leading technicians rather than professional diplomats, were joined by experienced negotiators, especially of those countries which were the main "recipients" of transboundary air pollution.

Many informal negotiations took place in the course of the period up to and including the thirty-fourth session of the Commission (spring 1979). Bilateral contacts and the good offices of the Executive Secretary were used to overcome difficulties.

Thus in moving towards the ultimate accords, the preparatory work and the negotiations conducted within the SAEP merged with the work of, and were concluded at, the Commission's thirty-fourth session during which the three draft documents on the topics were completed and "accepted".

At the very end of the session an understanding (based on political compromise) was hammered out concerning the adherence of the European Economic Community (EEC) to the proposed Convention.

Finally, the Commission, considering that the criteria for the convening of a high-level meeting on the protection of the environment within the framework of the ECE had been met, decided to convene the Meeting from 13 to 16 November 1979. The High-level Meeting actually concluded its work one day earlier.

The High-level Meeting proper: a conference of a new type

It would be quite wrong to regard the High-level Meeting itself, though fully "pre-negotiated", as just a rubber-stamping affair. It proved to be a truly notable gathering of a new type. Partly thanks to its brief duration, the Meeting enabled the most senior and authoritative policy- and decision-makers from the entire region to come together, for the first time, in order not only to reaffirm in solemn fashion the decisions that had been prepared and to provide the occasion for the actual signing of the Convention, but to acquaint each other and the public with the major problems of environmental protection facing their countries, including those singled out in the agenda. These statements shed new light on the environmental situation in the ECE region as a whole. The high level of representation was reflected in the exceptionally high quality of the statements made. But, above all, the presence of the policy- and decision-makers was, no doubt, meant to demonstrate the political resolve of their Governments and peoples, jointly and severally, to reduce long-range transboundary air pollution and see to it that the decisions would be implemented.

Although the High-level Meeting was not identified as a fully-fledged diplomatic conference of plenipotentiaries in the "classical" sense, it had most of its attributes. The representatives carried credentials duly authorizing them to sign or adopt texts which embodied mandatory provisions or specific commitments. While, strictly speaking, being an *ad hoc* conference, the High-level Meeting, by virtue of its being held "within the framework of the ECE", may be regarded as a visible culmination of the initial stage of a major co-operation activity of the Commission in the environmental field, and as the inauguration of the stage of implementation. The Meeting, though regional in character, was concerned with a matter of world-wide importance. Its East-West setting enhanced its significance. Its results were noted by the General Assembly of the United Nations then in session.

Summarizing, the High-level Meeting was a region-wide inter-State conference of a specialized character, held at predominantly ministerial level, and attended by representatives duly authorized to take decisions; it was anchored in an existing United Nations body and focused on both action and rule-making at policy level. It was an unprecedented event in the history of the ECE "bringing a new kind of dimension" (as the Executive Secretary remarked) to its work. Last but not least, the cost of the preparations and of holding the meeting was absorbed by the regular ECE budget, a rare achievement in UN conference diplomacy. And yet, withal, the Meeting is not sufficiently known among the region's citizens.

The interlocking and complementary pattern of the decisions on long-range transboundary air pollution

Leaving aside the second topic on the agenda of the High-level Meeting concerning low- and non-waste technology (on which a well-structured Declaration was adopted), two related decisions were taken on the first and principal topic, i. e. a (framework) Convention and a Resolution. This dual formula or "twin decision" was the felicitous result of a compromise reached during the concluding phase of the negotiations by the SAEP on whether or not the "important decision" on long-range transboundary air pollution was to be a legally binding instrument as desired by many countries, and especially by the members of the Nordic Group. After much discussion it appeared that the difficulty of those who were reluctant to envisage the conclusion of a Convention did not reside so much in their opposition to the concept of a legal instrument, but rather in their reluctance to accept mandatory commitments on specific control measures on air pollution caused by sulphur compounds, and associated time-targets as part of, or as an annex to, a Convention. In order to break the deadlock, the representative of Norway suggested that an acceptable compromise might be found by developing two documents. One of these would assemble those elements which would become constituent parts of a binding agreement; the other would be a statement of intent. This proposal proved acceptable, and it had, as will be seen, a significance beyond its immediate purpose.

First of all, the division of one text into two, one of a legal and the other of a "political" nature, and their subsequent interlinking, considerably strengthened the Convention and right from the start facilitated its implementation. This decisional pattern could and should, it is felt, be used in other similar situations also.

The Convention, the first (legal) *volet* of the "diptych" can be regarded as a "framework Convention", i. e. it is rather general in character and does not appear to involve changes in national legislation as a pre-condition for ratification. Basically, it defines the parameters and forms of national and international action to control, abate and prevent air-polluting emissions, particularly those of a long-range transboundary destination. It is the first legally binding instrument in this field covering a wide and highly industrialized region, and it is "for the first time" that "explicit reference had been made in an internationally binding instrument to Principle 21 of the Declaration of the United Nations Conference on the Human Environment",[1] thereby enhancing the Declaration's standing and authority.

Two features of the Convention deserve special mention. The first is the provision under Article 5 for mandatory consultations (bilateral or multipartite), upon request, between Contracting Parties affected or exposed to significant risk of air pollution and Contracting Parties within whose territory air pollution originates. This consultation procedure—a procedure which can be applied to many other international situations and problems, economic and political (including conflict management)—could, if more widely used, become an important instrument for a closer integration of unilateral, bilateral and multilateral diplomacy in different domains of UN activity.

The second noteworthy feature is that under Article 12 amendments to the Convention "shall be adopted by consensus".

The associated Resolution, the second ("political") *volet* of the "diptych", furnishes the essential "back-up" to the Convention and can be regarded, above all, as the embodiment of the political will of the Signatories to adhere to and strengthen the legal instrument, especially in its early phase.

The Resolution is totally different from customary ECE resolutions. It was adopted solely by the Signatories to the Convention, and not by the Commission. Couched in the categoric terms of an unequivocal statement of intent, it contains a number of specific undertakings, i. e. (1) to initiate the provisional implementation of the Convention as soon as possible; (2) to attach highest priority to dealing with abatement of air pollution caused by sulphur compounds; and, most importantly, (3) to "seek to bring closer together their policies and strategies for combating air pollution, including long-range transboundary air pollution" as well as to "review regularly the progress achieved at national level". In point of fact, the Resolution embodied a kind of implementation agreement which, in the event, was fully honoured.

Follow-up and implementation

In action-oriented and rule-making conference diplomacy it is the phase of follow-up and implementation which is crucial.

The provision under Article 10 of the Convention for the setting-up of the Executive Body of the representatives of the Contracting Parties proved to be of key importance in safeguarding the implementation and the development of the Convention. It can therefore be regarded as a distinctive component of the Conference process. The decision (contained in the Resolution) to start implementing the Convention on a provisional basis "as soon as possible" ensured speedy action, thus vindicating the wisdom of its adoption.

The Executive Body, after operating on an interim basis until the Convention entered into force in 1983, is now a firmly established, authoritative, efficient (and economical) institution, with its own distinctive style of work and procedural régime, operating by explicit consensus, autonomous, and yet functioning within the framework of the Commission, which ensures the necessary links with the SAEP and ECE's plenary sessions.

Looking back, the visible success of the Convention, especially in the abatement of transboundary air pollution by sulphur compounds, cannot be gainsaid. The Contracting Parties have agreed to undertake major reviews of national policies and strategies every four years. The Executive Body, at its fourth session held at the end of November 1986, considered a report on this matter based on national submissions, which both the Parties to, and the Signatories of, the Convention are obliged to present. It functions on the basis of a well structured and precise Work Plan: the purpose of each subject area is spelt out and each project, within that area, indicates the nature of the action, the method of work, and the time-schedule. Individual Governments make financial contributions and provide expertise to a number of projects.

Significant progress was achieved in collating and systematizing existing data and new research findings on different aspects of the nature and the effects of air pollution, the relevant international organizations, notably the United Nations Environment Programme (UNEP), the World Meteorological Organization (WMO) and the World Health Organization (WHO) making an important input into this collective work an increasing part of which is being published. In several cases, suggestions for fresh research originated in the Executive Body.

Much has been done to flesh out the Convention (proving thereby that a seemingly "weak" framework Convention can be and has indeed been developed). In September 1984 a Protocol on Long-term Financing of the Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), through a network of national measuring stations, an operation linked with the Convention under Article 9, placed it on a sound and assured foundation. EMEP deserves careful attention by students and practitioners of UN-related operational institutions.

Strenuous efforts to achieve a mandatory reduction of sulphur compounds emissions by a specified amount and by a designated date, were undertaken both inside and outside the Executive Body, reflecting growing public alarm in many countries of the ECE region at the effects of acid precipitation. Intergovernmental conferences at ministerial level convened by individual Contracting Parties were held in Stockholm (June 1982) and in Ottawa (March 1984). The so-called "30 per cent Club" came into being. When the Government of the Federal Republic of Germany extended an invitation to all

Signatories of the 1979 Geneva Convention to a "Multilateral Conference" at ministerial level (Munich, June 1984) to consider this matter further (alongside other major and urgent problems of environmental protection), a commendable institutional formula was worked out whereby, without in any way affecting the essentially unilateral origin of the Conference, it was explicitly linked, by virtue of a decision adopted by the Commission at its thirty-ninth session, with ECE and the Executive Body. The formula facilitated co-ordination between unilateral and multilateral conference diplomacy in an East-West setting and assured the attendance of virtually all Contracting Parties and Signatories at the Munich Conference. Such an arrangement could conceivably be used elsewhere within the UN system for different purposes.

All these initiatives led to the adoption at the third session of the Executive Body, held at ministerial level in Helsinki in July 1985 (on the occasion of the tenth anniversary of the signing of the CSCE Final Act), of the Protocol to the 1979 Convention on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent as soon as possible and at the latest by 1993. Now efforts are focused on the elaboration of internationally agreed measures for the abatement of emissions of nitrogen oxides or their transboundary fluxes. A draft protocol to this end has been prepared for adoption at the end of 1988. It is reasonable to expect further protocols in the foreseeable future.

It can thus be seen that the Conference process of the High-level Meeting, initiated a little over a decade ago, has, despite many unfavourable circumstances, not lost its momentum. It has yielded and can be confidently expected to continue to produce further results beneficial to the peoples of the region and beyond its confines. Its does deserve to be widely known.

Wider repercussions and effects

The brief account and assessment of the significance of the High-level Meeting and its follow-up would not be complete in its essentials without considering its indirect impact. The Meeting has undoubtedly enhanced the authority and standing of the Commission. It has demonstrated ECE's ability and capacity to conduct effective policy-co-ordinating conference diplomacy in a major sector at decision-making level.

The accord reached to hold the High-level Meeting was only a partial response to the original proposal which envisaged two similar meetings on important policy aspects of energy and transport. Although no agreement could be reached on holding such further gatherings the High-level Meeting process did stimulate thinking on whether the ECE could play a greater role in the examination of the broader policy facets of its sectoral work and possibly even go somewhat further. In point of fact, some of ECE's Principal Subsidiary Bodies have in recent years gone beyond their predominantly technical preoccupations by instituting regular policy reviews within their competence. The creation in April 1979 of an *ad hoc* body on energy can be regarded as a partial response to a high-level inter-State conference on the energy economy in the region. The mandate of the Senior Advisers to ECE Governments on Energy includes exchanges of information, views and experiences on general energy problems, including national objectives and policies. Finally, the adoption by the Commission of the "ECE Declaration of Policy on Prevention and Control of Water Pollution, including Transboundary Pollution" in the spring of 1980 was facilitated by the Commission's earlier decision to invite closer co-operation between SAEP and the Committee on Water Problems in the drafting of that Declaration. During the general debate at the High-level Meeting, attention was drawn to the importance of the work of the Committee on Water problems to update the 1966 Declaration on this subject and several suggestions were made for its amendment. The 1980 Declaration recognizes the need for the co-ordination of efforts of ECE countries in water pollution control matters and enunciates the principle that States sharing water resources should undertake, on the basis of their national policies, concerted action in various directions. This principle is in accord with the need for national policy co-ordination postulated in this study.

The High-level Meeting viewed as a potential model of policy-relevant conference diplomacy in ECE

Does the High-level Meeting process constitute a "model"?

The empirically gleaned insights into the salient features, components and inner dynamics of the conference process lead one inevitably to pose the following question: while recognizing its necessarily unique character, can a convincing case be established to support the view that this Meeting possessed the makings of a new model of conference diplomacy, especially, though not exclusively, germane to the sectoral activities and programmes of the ECE? A model in the lexical sense of being a "thing to be imitated or patterned after; that which is taken as a pattern or an example"?

The present author believes that it can, though he realizes, of course, that this belief would carry more conviction if the model had, in fact, been "imitated or patterned after", i. e. had been tested in one or more sectoral subject areas and had proved effective as a qualitatively new form of East-West co-operation to "bring closer together the national policies and strategies" on major matters of region-wide concern. This has not yet been so for a number of reasons, mainly of a political nature. It could, of course, be argued that there are essential differences between protection of the environment from air pollution and other interactions having transboundary manifestations. In energy, transport and trade, transboundary movements are man-made, whereas the passage of air pollutants are influenced by geography and climate. The need to concert efforts to reduce emissions at source is now generally recognized. But it could also be forcefully argued that the need for sectoral policy co-ordination of a number of major "man-made" international transactions is equally important and more easily attainable precisely because they are "man-made" and, therefore, more amenable to policy. Absence of agreement is "not the fault of the model".[2]

In the early 1980s it became clear that the Western countries were not prepared to agree on the holding of high-level meetings on either energy or transport; nor did they seem to be inclined to embark upon any "large initiatives". The repetition of the proposal on every conceivable occasion became somewhat pointless. At the thirty-ninth plenary session of the Commission (spring 1984) the representative of the USSR stated that "we shall wait till others realize the need for such conferences to stimulate co-operation in those areas. At the same time we stand ready to use various forms of co-operation with those who desire it in order to develop mutually beneficial ties in the fields of both energy and transport".

At the same time, the recognition by an important group of Western countries that "there may be instances where the results of the essential contacts and co-operation among experts could be enhanced by a meeting within the framework of the ECE held at a higher level than usual" presumably still stands.

The case for an affirmative reply

(a) Prospects for further high-level or similar types of meetings

It is not easy to judge whether a new and strong political impulse is required for the Commission to review the possibility of convening a further special meeting on another major topic which requires examination at a policy level in order to produce "important decisions". This writer is inclined to believe that such a stimulus would indeed be necessary. A constructive outcome of the third CSCE follow-up and review meeting in Vienna could have a considerable impact, especially if it is expressed in terms of specific desiderata regarding the strengthening of ECE's role in promoting a measure of concertation of the region's national strategies in particular areas.

Let it therefore be assumed, for the purposes of the present analysis, that at a suitable juncture in the foreseeable future, after the necessary soundings and diplomatic preparation, a well-researched proposal is tabled, preferably by a number of Eastern and Western countries acting together. The proposal specifies a particular topic or a limited number of related topics which appear suitable and timely for consideration at policy level "within the framework of the ECE" and which should therefore be tested on the basis of the criteria set forth in Commission resolution 1 (XXXIII).

(b) Flexible use of the model and its components

If the ground is well prepared, the general theme chosen and the response favourable in principle, the conference process could be initiated without undue delay and all stages of it would proceed within the framework of the ECE.

Any stipulation as regards the level of representation should not be too rigid or doctrinaire. The absolute requirement for attendance by Ministers may be preferable in some cases; in others Governments could be represented at a somewhat lower but adequate senior policy-making (as distinct from senior advisory) level, provided that such representatives were formally vested with full powers to assume legal and political commitments on behalf of their Governments.

A two-stage preparation phase of sifting the material (including, more particularly, the views and proposals of individual Governments regarding particular topics) in accordance with the agreed criteria adopted in connection with the High-level Meeting on the Protection of the Environment, seems to be sound and can be regarded as an essential feature of the model. Accordingly, the first stage would be entrusted to the Executive Secretary and his staff. It would be prospective, investigative and rigorously analytical. The second stage would be handled by the appropriate Principal Subsidiary Body and designed to pave the way towards negotiated solutions of the problems retained for special attention. Different options for possible "important decisions" could be advanced, but a choice made prior to the actual meeting.

This does not necessarily mean that in each instance the preparatory phase need be quite so searching, elaborate and protracted as for the first High-level Meeting, but the approach to the analysis of topics and the methodology employed by the Executive Secretary should be borne in mind and, as necessary, applied in a flexible manner.

The stage of negotiations should be looked upon as a natural sequel to, and an outgrowth of, the substantive preparations, though this aspect need not be managed in a standardized way. Neither should the option of a fully pre-negotiated Conference (as was the case with the High-level Meeting) be necessarily replicated in other analogus situations. But it should be remembered that ministers and other senior policy-makers prefer brief meetings. Notwithstanding the improvement and a measure of greater predictability in East-West relations, this author would still be inclined to prefer a pre-negotiated conference of brief duration.

It is the pattern of the two interlinked and complementary decisions adopted by the High-level Meeting on the first topic, representing a kind of "diptych" of juridico-political or politico-legal commitments, which seems to be the centrepiece and nub of the model as a whole. The formula should, therefore, be used wherever possible and suitable, for not only has it proved to be effective in ensuring action and sustaining the requisite political will, but it also makes, on reflection, eminent sense.

The legal mould of an "important decision" upgrades the process of co-operation, especially in an organization such as the ECE. The "framework convention" type of a legal instrument seems to be particularly suitable. For such conventions do not, as a rule, imply the need to change national legislation before acceptance, and if properly implemented and "developed" (e.g. through protocols) can become increasingly effective. It stands to reason that it is much easier to draw up and agree upon an initially "low-profile" convention than to elaborate and adopt a more far-reaching and specific legal instrument. It seems therefore that the wider use of a framework convention within the ECE, and even the broader UN framework, as a regulatory mechanism of sectoral co-operation and policy harmonization should be encouraged. The desirability of a companion resolution (or some other procedural arrangement) of the signatories cannot be over-emphasized. For it imparts the necessary political dynamism to the framework convention and reinforces the commitments that have been accepted, thereby facilitating, ensuring and safeguarding the momentum of implementation.

It may not always be possible or even indispensable to cast commitments of Governments in a legal mould. Indeed, there may be a number of cases where a declaration of intent may suffice, at least as a first step. In such an eventuality the declaration might be signed in the manner of authenticating a "Final Act" of conference diplomacy. But what is more important is that the declaration should be framed in specific and categorical terms and contain sufficiently precise guidelines for national and international action, so that in time it could be regarded as a quasi-legal document or ultimately be replaced by a full-fledged instrument.

The administrative and organizational modalities of the meetings dealing with aspects of sectoral policies need not, of course, be uniform. The advantages of a "pre-negotiated" and brief meeting of the kind held in November 1979 have already been stressed. If this were the format chosen, more use should be made of the presence under one roof of the high-level sectoral policy-makers of the ECE region, for instance by providing for an exchange of views in response to questions formulated in advance, and by arranging informal personal contacts (bilateral and "multipartite") between the heads of delegations. A popular digest of the official discussions (which could be prepared at the request of the meeting or by the secretariat on its own responsibility) should be given wide publicity.

Viewing the first High-level Meeting as a possible model, the establishment of an institutional machinery for the follow-up or implementation stage is essential, but its make-up will obviously depend on the nature of the sector, of the problems discussed, and of the decisions taken. In the case of a legally binding instrument, the setting-up of a body, endowed with the necessary degree of autonomy, though linked with the United Nations, to review, implement and develop that instrument, and in so doing make full use of consultation and consensus, seems to be indicated. But once again, there is no need for uniformity; and in cases where the conclusion of a legally binding instrument is not considered to be essential, the necessary machinery could be established by other means. Administrative costs should be kept to the minimum and should preferably be absorbable. The need for due dispatch should be provided for. But the overriding consideration is the regulatory capability of whatever institutional instrumentality is devised.

Wider use of framework conventions

The proposition that the use of the instrument of a framework convention should be further developed deserves some further attention at this concluding stage of the investigation.

The attractions of this particular form of such an instrument have already been explained.[3] On the whole, Governments tend to shy away from instruments whose ratification implies an appreciable degree of limitation of their countries' sovereignty. The drawing up, negotiation and entry into force of conventions embodying a comprehensive legal régime, are extremely sensitive and usually long drawn-out operations which by no means always succeed. Legally binding procedures affecting vested interests (such as liability for damage caused) are often stubbornly and successfully resisted. Even if such types of "full-fledged" conventions are finally signed, there may be a long period before their entry into force, by which time they may have become, at least in part, obsolete. Many duly accepted conventions and protocols prove to be inoperative or fall into abeyance. Framework conventions are much easier to handle and, given the necessary political support, can be developed into highly effective legal instruments.

The potential importance of a mandatory consultation procedure as built into the 1979 Convention needs re-emphasizing. Analogous provisions could with advantage be included in other such conventions to take care of problems which may affect particular countries. This would encourage the use of preventive diplomacy and help to integrate the multilateral, bilateral and unilateral concerns of the Contracting Parties.[4] Indeed, this writer believes that the conclusion, under the auspices of the United Nations (including the involvement of the Secretary-General), of a Convention on a Consultation Procedure of a more general nature, including political matters, is worthy of consideration.

The wider applicability of the model of the High-level Meeting to the co-operative interactions going forward within the framework of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), and the Commissions for Latin America and the Caribbean (ECLAC), Africa (ECA) and Western Asia (ECWA), as well as in the context of the regional activities of UN's specialized agencies and other UN bodies, call for careful examination. It might, for instance, be profitable to give thought to how best the model could be tested in the various regions. This would require the prospection for, and identification of, suitable issue-areas requiring international policy co-ordination, regulation and implementation within the given region or between several regions. It would seem that the criteria agreed and used for preparing ECE's High-level Meeting on the Protection of the Environment could be employed, at least as guidelines, for this purpose also in other regions.[5)]

To a non-jurist the ideal approach would be to ensure that, whenever appropriate, regional framework (or "outline") conventions acknowledge that they are dealing with certain regional "portions", i. e. with disaggregated and hence more manageable regional or subregional components of global issues, so that together they could be fitted into, linked with, or complement each other to constitute interregional and global regulatory arrangements. It will depend on the nature of the topic whether the initial approach should be primarily regional or global. In the latter case, the global framework convention should provide for the possibility of regional agreements, such as protocols.[6)]

Basically, the environmental crisis is, of course, a global one involving, in different degrees, all countries and regions, and closely interlinked with economic development. Both regional and global approaches are legitimate, provided they are effective and fit a particular problem area. From this standpoint, the ECE Convention is, of course, but a relatively small part of the total picture, and the results achieved as yet too limited to have significantly lessened the ongoing degradation of our environment. But the action going forward is on the right road and does represent an important piece of machinery as a means for tackling the problem which has enriched the concept of conference diplomacy.[7)]

A greater emphasis on problem-solving through regional UN conference diplomacy at a suitably high policy level is becoming increasingly noticeable among the developing countries which in their own efforts to achieve self-reliance seek to supplement whatever net support of the international community they receive. This trend enhances the relevance of ECE's High-level Meeting and its process as a model for strengthening international co-operation.[8)]

The interaction between economic and political relations

The ever-growing interdependence renders ineluctable a degree of concertation of economic and related policies, even between "heterogeneous" partners. But, as ECE's recently adopted Regional Strategy for Environmental Protection and Rational Use of Natural Resources covering the Period up to Year 2000 and Beyond, mentioned earlier[9)], declares "environmental co-operation, like other forms of international co-operation, is extremely sensitive to the general international climate".[10)] It has become a commonplace to observe that international economic relations and international political relations are interacting, but there is strong empirical evidence that, in the shorter term at any rate, it is the political element that tends to predominate.

Politics never stand still. Although the external political climate has been a seriously constraining factor in ECE's activities over the years, there are, at the time of writing, some definite signs of improvement in the East-West and, more particularly, the US-USSR relationship, though many unresolved problems and uncertainties persist. But a return to the period of the cold war of the late 1940s and 1950s is unlikely. The ECE should therefore have more scope in the period ahead to strengthen its action- and policy-relevant potential in all those areas where greater concertation of efforts seems to make sense.

Far-reaching changes of different kinds in the economic structures in countries of Eastern and Western Europe are expected to occur in the coming years, i.e. before the present millenium ends. As Mr. Stanovnik has argued,[11] there need not necessarily be a conflict between the region-wide and the subregional as well as, for that matter, interregional forms of intergovernmental co-operation, especially now that relations between Eastern countries and the CMEA and the European Economic Community are being normalized.[12]

Therefore the ECE should move forward and, in so doing, use innovative forms of conference diplomacy in the light of the experience gained from the High-level Meeting process, with a view to a political and policy up-grading of at least some of its major preoccupations, thereby contributing also to the building up of a modicum of confidence in East-West relations.[13]

Final remarks

The need to strengthen the United Nations

The World Organization is currently passing through a difficult period of structural adjustment and financial crisis. Despite some hopeful developments and pointers, it has not yet reached a solidly grounded and enduring unity of purpose of its Security Council and, more particularly, amongst its permanent members, without which it cannot properly function in the peace-keeping area. Nevertheless it would be wrong to be gloomy about the prospects of UN-related multilateral diplomacy. The time is ripe to stress the indispensable nature of multilateral co-operation within a universal framework. The growing interdependence of nations, big and small, rich and poor, capitalist and socialist, pre-industrial and, as some say, "mixed", has led to a qualitatively new state of affairs in the international arena that is full of contradictions and yet full of promise. Despite uncertainty, suspicion, lack of stability, shifting power centres, the continuing arms race, the surfeit of cruel regional conflicts and the trade in weapons, there are signs of a growing understanding that in the nuclear age humankind has come to share a common destiny and that there is need to build confidence by all available means, including moral and psychological, and to comprehend that the fundamental issue of human survival is at stake. Domestic and international concerns increasingly interpenetrate and ultimately fuse. The impact of the diversity of systems on region-wide and global co-operation is being reassessed. There is a quest for new approaches to a more comprehensive notion of security and human progress through dialogue, negotiations, mutual help, and a re-appraisal of underlying values and assumptions regarding the functioning of the international community, including the attenuation of exploitation and suffering. Notwithstanding the ups and downs the unpredictability, there is movement towards common solutions and the joining of forces in solidary fashion, i.e. action both severally and in unison. Mankind, rent by conflicts and tensions, is longing to live together in peace.

Given these changes it is essential for the United Nations to be enabled by its Member States to tackle effectively such major priority tasks on the joint solution of which human survival depends, like disease, famine, poverty, degradation and all manner of iniquity, and, of course, the preservation of the ecological balance. Indeed, Professor and Nobel Prize Laureate Jan Tinbergen regards nuclear war and intensive pollution as the two supreme dangers facing mankind.[14] More and more people understand that their Governments must use the facilities of the United Nations to a much greater extent than hitherto to address themselves to such momentous issues urgently, operationally and executively, and be prepared voluntarily to limit their national sovereignty. (This is, incidentally, the best way to inhibit UN's bureaucratization and to enhance its effectiveness.) The United Nations must function more efficiently and expeditiously and be enabled to play its full part under the Charter in maintaining peace, security and justice, and in promoting economic and social advancement of peoples in a world of rapid mutation. Member States must ensure that "the peoples of the United Nations" know what the UN does and could do.

The United Nations is based on the Charter which is a Treaty. The United Nations is therefore a *Treaty Organization.* Its Secretary-General is not just the "chief administrative officer of the Organization". He also heads one of the UN's six principal organs. While he is at the service of each Member State, he is, above all, the custodian of, and spokesman for, the concerns, the safety and the well-being of the collectivity of all Member States and their peoples in all their manifold diversity. The Secretary-General represents the Organization as a distinct legal personality. Peoples and Governments must pay due regard to the responsibilities of the Secretariat and commit themselves to abiding by the letter and spirit of their legal, political and moral obligations towards the United Nations Treaty Organization. Such a commitment is ultimately in accord with their own interests. At the unilateral level, UN affairs should be handled in a continuing and systematic manner, at a senior policy (preferably cabinet) level. All national and bilateral policies must have a multilateral "UN roof".

One further way of strengthening UN's efficiency and operational capability to fulfil its Charter role of being "a centre for harmonizing the action of nations" in the attainment of UN's common ends (Article 1.4 of the Charter), is to reinforce the politico-legal underpinning of its institutional infrastructure through the development of a growing network of legal and quasi-legal instruments, consensus declarations, codes of conduct and the like, coupled with political agreements on the institutional modalities of their implementation. In this context, the model of ECE's High-level Meeting could and should, for reasons adduced earlier, well prove instructive alongside other procedures that have proven their worth. Would it not be a good thing if a group of "wise men" representing not only legal and political sciences but also other relevant disciplines come together to ponder and scrutinize, among other things, how such a process could be put into practice without undue delay, thereby invigorating the United Nations Charter by endowing the Organization with a greater regulatory capability to build confidence,[15] strengthen security and safeguard "our common future"?[16]

The role of institutional mechanisms

A last word on the potential importance of the institutional factor: a recurring theme of this study has been the interaction between international institutional arrangements and the action of Governments (and national institutions). Indeed, it can be said that this interaction is central to any process of conference diplomacy. More attention should be devoted to this aspect.

It is obvious that institutions alone cannot generate co-operation. However, it would be wrong to underestimate the role they can play in shaping and channelling international relations. The creation of the United Nations Organization in 1945 was the result of the political will, both joint and several, of the founding States. The demand for membership of other States likewise presupposed a political decision by the applicant. But once a State became a Member of the United Nations, its representatives very soon discovered that they had to conform to the institutional régime of the "house", i. e. they were expected to attend the meetings, as scheduled in the "calendar of meetings", observe the rules of procedure, take positions, participate in international decision-making, etc., even if often they (and their Governments and people) wondered whether all this was worthwhile and really that important. Imperceptibly and gradually the very functioning of UN institutions, both of a permanent and of an *ad hoc* nature, led to the formation of certain modes of a relatively predictable behavioural pattern on the part of the Organization's members. When the work in hand is of some moment, as it is in the case of the conference process connected with ECE's High-level Meeting on the Protection of the Environment, one has the strong impression that the institutional arrangements which are instrumental in unfolding the process and ensure implementation of the decisions taken do not merely provide the conduits for national policies within a multilateral structure, but also a forum for the expression and affirmation of a collective political will. A soundly conceived institutional vehicle will continue to move forward, steered by the secretariat to the extent of gently pushing along those States whose political resolve to participate in the process in an active manner may be flagging. One is almost tempted to say that the institutional factor can and does assume a force of its own. Maybe it is this phenomenon which Maurice Strong, the architect of UNEP, had in mind when he remarked that "the process is the policy".

NOTES AND REFERENCES

RECAPITULATION AND FINAL REMARKS

1. For a summary of the essential contents of the Convention, see "The High-level Meeting and the Convention" in *Economic Bulletin for Europe*, vol. 34, No. 1 (March 1982).
2. When discussing his study on the High-level Meeting with a senior colleague in the ECE who had read and commented on it, this writer expressed his regret that no further high-level meetings had been held so that the viability of the model had not been tested. His interlocutor replied that the holding of such meetings depended on changing political circumstances and added "Absence of agreement on this matter is not the fault of the model, which is sound."
3. See p. 203.
4. See also p. 198.
5. It is gratifying to record that UNEP had been working along similar lines long before the possibility of a high-level meeting within the framework of the ECE on the protection of the environment was even mooted. The UNEP Governing Council, at an early stage, endorsed a regional approach to the control of marine pollution and management of marine and coastal resources. In 1974 the Regional Seas Programme of UNEP was initiated. This Programme covers a number of areas where regional action plans are operative or are under development (the Mediterranean Region, the Kuwait Action Plan Region, the Wider Caribbean Region, the East Asian Seas Region, the South-East Pacific Region, the East Africa Region, the South-West Atlantic Region and the South Asian Seas Region). All action plans are structured in a similar way, although the specific activities for any particular region are dependent on the needs and priorities of that region. The programme is thus clearly *both* action-oriented and rule-making. An action plan usually includes amongst its components, an "umbrella regional convention", elaborated by specific technical protocols. The convention provides a legal framework for co-operative regional and national action. As regards institutional arrangements, Governments of Contracting Parties agree upon an organization to act as the permanent or interim secretariat of the action plan. UNEP provides the initial "seed money". As a particular regional programme develops, it is expected that the Governments assume financial responsibility. The existing conventions do not provide for provisional entry into force; nor are they deposited with the Secretary-General of the United Nations. UNEP and other UN bodies co-operate in the implementation of the programme. (For further information, see the texts of the various Conventions and the introduction thereto, published by UNEP. The publications do not bear a document symbol, because they are not considered to be official UN documents.)

   For an analysis of recent developments, see P.H. Sand, "The Rise of Regional Agreements for Marine Environment Protection", published in *The Law and the Sea—Essays in Memory of Jean Carroz*, FAO, Rome, 1987, pp. 223-232. Mr. Sand stresses the impact of the UNEP Regional Seas Programme on the development of contemporary international law through the introduction of a new kind of regionalism which departs from the traditional land-based outlook. He considers that the approach to environmental questions in marine areas of the UNEP Regional Seas Programme is compatible with the 1982 UN Convention on the Law of the Sea and, in particular, with the latter's emphasis on the need for regional agreements.

6. See Mr. Sand's comments summarized in the preceding note.
7. The recently published report (1987) of the World Commission on Environment and Development deals with the problem in a comprehensive way. Part III—Common Endeavours—contains an important chapter entitled "Towards Common Action: Proposals for Institutional and Legal Change" which examines national policies and institutions, regional and interregional action, and global institutions and programmes.

   The Conference on "the changing atmosphere", held in June 1988 in Toronto by the Government of Canada and attended by officials from 48 countries (including the United States and the USSR), as well as private scientists and others, called in a statement for the development of a "comprehensive global convention" for the protection of the atmosphere by the year 1992. (In 1987 more than 40 nations agreed on a treaty to protect the ozone layer. But experts said that the measures to slow the "greenhouse effect" would be more difficult and expensive.) Mr. Y. S. Sedunov, First Deputy Secretary of the Soviet State Committee for Hydrometeorology, considered the Toronto Conference "an important step toward a global approach to ecological problems". While the phenomenon dealt with by this gathering is predominantly global, one wonders whether the experience of ECE's High-level Meeting was taken into account by the organizers of this important event. (See also *International Herald Tribune*, 2/3 July 1988.)
8. The Ambassador of a developing country, in a chance conversation with the author, told him of his interest in the High-level Meeting as a possible formula for more intensive regional and regulated co-operation between developing countries. He said this being totally unaware of the author's interest in that Meeting and the study in which he was then engaged. Needless to say, this author was encouraged by the judgement of a person whom he holds in high esteem.
9. See above, chapter XII, note 31.
10. ECE/ENVWA/3/Add.1, para. 137.
11. See chapter III, pp. 56-57.
12. In the sector analysed in this study the new rules to reduce emissions from big power plants of the Community do not, for instance, run counter to the 1979 Convention.
13. "Confidence" in international politics (and not merely in the realm of East-West relations) is not yet a standard or clearly delineated term. Some political scientists have defined it as "the expectation of consistence in future behaviour", mainly in the politico-military domain. The author is inclined to enlarge somewhat on this definition which should embrace the entire range of East-West interactions:

   (1) East-West behaviour must be such as not to harm others' interests which are recognized as vital by both sides;

   (2) This behaviour should exhibit a readiness by both sides to act as consistently reliable partners in clearly defined co-operative or joint arrangements and "situations" in the principal areas of East-West interaction;

   (3) Such interaction should be based on common interest and/or mutual and balanced advantage, anchored in, and regulated by, appropriate commitments, preferably of a legally binding character, and provide for a common overview of the implementation of those commitments;

   (4) In cases of unforeseen difficulties, both sides should make the necessary efforts to forestall or remove any misunderstanding, preferably through informal consultations.

   Consequently, the High-level Meeting can be regarded as a "confidence-making measure" in the economic and related fields.
14. "... a new priority had developed as a precondition to changing the social order—that neither a nuclear war nor intensive pollution, such as acid rain or other intoxication of our environment should interfere with socio-economic policies" (Jan Tinbergen, *World Press Review* and *International Herald Tribune*, 10 September 1984.)
15. For reasons of space, the discussion of this aspect had to be omitted from this study. (See the author's paper "Confidence Building and Confidence-building Measures in East-West Interaction", *Co-existence*, vol. 21, No. 1 (The Hague, 1984), pp. 23-36.)
16. See the *Report of the World Commission on Environment and Development*, bearing this title (Oxford-New York, Oxford University Press, 1987).

ANNEXES

Annex I

HELSINKI FINAL ACT: PREAMBLE AND SECTION 5 OF CHAPTER II

CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE

FINAL ACT

Co-operation in the Field of Economics, of Science and Technology and of the Environment

The participating States,

Convinced that their efforts to develop co-operation in the fields of trade, industry, science and technology, the environment and other areas of economic activity contribute to the reinforcement of peace and security in Europe and in the world as a whole,

Recognizing that co-operation in these fields would promote economic and social progress and the improvement of the conditions of life,

Aware of the diversity of their economic and social systems,

Reaffirming their will to intensify such co-operation between one another, irrespective of their systems,

Recognizing that such co-operation, with regard for the different levels of economic development, can be developed, on the basis of equality and mutual satisfaction of the partners, and of reciprocity permitting, as a whole, an equitable distribution of advantages and obligations of comparable scale, with respect for bilateral and multilateral agreements,

Taking into account the interests of the developing countries throughout the world, including those among the participating countries as long as they are developing from the economic point of view; reaffirming their will to co-operate for the achievement of the aims and objectives established by appropriate bodies of the United Nations in the pertinent documents concerning development, it being understood that each participating State maintains the positions it has taken on them; giving special attention to the least developed countries,

Convinced that the growing world-wide economic interdependence calls for increasing common and effective efforts towards the solution of major world economic problems such as food, energy, commodities, monetary and financial problems, and therefore emphasizes the need for promoting stable and equitable international economic relations, thus contributing to the continuous and diversified economic development of all countries,

Having taken into account the work already undertaken by relevant international organizations and wishing to take advantage of the possibilities offered by these organizations, in particular by the United Nations Economic Commission for Europe, for giving effect to the provisions of the final documents of the Conference,

Considering that the guidelines and concrete recommendations contained in the following texts are aimed at promoting further development of their mutual economic relations, and convinced that their co-operation in this field should take place in full respect for the principles guiding relations among participating States as set forth in the relevant document,

Have adopted the following:

……

5. Environment

The participating States,

Affirming that the protection and improvement of the environment, as well as the protection of nature and the rational utilization of its resources in the interests of present and future generations, is one of the tasks of major importance to the well-being of peoples and the economic development of all countries and that many environmental problems, particularly in Europe, can be solved effectively only through close international co-operation,

Acknowledging that each of the participating States, in accordance with the principles of international law, ought to ensure, in a spirit of co-operation, that activities carried out on its territory do not cause degradation of the environment in another State or in areas lying beyond the limits of national jurisdiction,

Considering that the success of any environmental policy presupposes that all population groups and social forces, aware of their responsibilities, help to protect and improve the environment, which necessitates continued and thorough educative action, particularly with regard to youth,

Affirming that experience has shown that economic development and technological progress must be compatible with the protection of the environment and the preservation of historical and cultural values; that damage to the environment is best avoided by preventive measures; and that the ecological balance must be preserved in the exploitation and management of natural resources,

Aims of co-operation

Agree to the following aims of co-operation, in particular:

— to study, with a view to their solution, those environmental problems which, by their nature, are of a multilateral, bilateral, regional or sub-regional dimension; as well as to encourage the development of an interdisciplinary approach to environmental problems;

— to increase the effectiveness of national and international measures for the protection of the environment, by the comparison and, if appropriate, the harmonization of methods of gathering and analyzing facts, by improving the knowledge of pollution phenomena and rational utilization of natural resources, by the exchange of information, by the harmonization of definitions and the adoption, as far as possible, of a common terminology in the field of the environment;

— to take the necessary measures to bring environmental policies closer together and, where appropriate and possible, to harmonize them;

— to encourage, where possible and appropriate, national and international efforts by their interested organizations, enterprises and firms in the development, production and improvement of equipment designed for monitoring, protecting and enhancing the environment.

Fields of co-operation

To attain these aims, the participating States will make use of every suitable opportunity to co-operate in the field of environment and, in particular, within the areas described below as examples:

Control of air pollution

Desulphurization of fossil fuels and exhaust gases; pollution control of heavy metals, particles, aerosols, nitrogen oxides, in particular those emitted by transport, power stations, and other industrial plants; systems and methods of observation and control of air pollution and its effects, including long-range transport of air pollutants;

Water pollution control and fresh water utilization

Prevention and control of water pollution, in particular of transboundary rivers and international lakes; techniques for the improvement of the quality of water and further development of ways and means for industrial and municipal sewage effluent purification; methods of assessment of fresh water resources and the improvement of their utilization, in particular by developing methods of production which are less polluting and lead to less consumption of fresh water;

Protection of the marine environment

Protection of the marine environment of participating States, and especially the Mediterranean Sea, from pollutants emanating from land-based sources and those from ships and other vessels, notably the harmful substances listed in Annexes I and II to the London Convention on the Prevention of Marine Pollution by the Dumping of Wastes and Other Matters; problems of maintaining marine ecological balances and food chains, in particular such problems as may arise from the exploration and exploitation of biological and mineral resources of the seas and the sea-bed;

Land utilization and soils

Problems associated with more effective use of lands, including land amelioration, reclamation and recultivation; control of soil pollution, water and air erosion, as well as other forms of soil degradation; maintaining and increasing the productivity of soils with due regard for the possible negative effects of the application of chemical fertilizers and pesticides;

Nature conservation and nature reserves

Protection of nature and nature reserves; conservation and maintenance of existing genetic resources, especially rare animal and plant species; conservation of natural ecological systems; establishment of nature reserves and other protected landscapes and areas, including their use for research, tourism, recreation and other purposes;

Improvement of environmental conditions in areas of human settlement

Environmental conditions associated with transport, housing, working areas, urban development and planning, water supply and sewage disposal system; assessment of harmful effects of noise, and noise control methods; collection, treatment and utilization of wastes, including the recovery and recycling of materials; research on substitutes for non-biodegradable substances;

Fundamental research, monitoring, forecasting and assessment of environmental changes

Study of changes in climate, landscapes and ecological balances under the impact of both natural factors and human activities; forecasting of possible genetic changes in flora and fauna as a result of environmental pollution; harmonization of statistical data, development of scientific concepts and systems of monitoring networks, standardized methods of observation, measurement and assessment of changes in the bisophere; assessment of the effects of environmental pollution levels and degradation of the environment upon human health; study and development of criteria and standards for various environmental pollutants and regulation regarding production and use of various products;

Legal and administrative measures

Legal and administrative measures for the protection of the environment including procedures for establishing environmental impact assessments.

Forms and methods of co-operation

The participating States declare that problems relating to the protection and improvement of the environment will be solved on both a bilateral and a multilateral, including regional and sub-regional, basis, making full use of existing patterns and forms of co-operation. They will develop co-operation in the field of the environment in particular by taking into consideration the Stockholm Declaration on the Human Environment, relevant resolutions of the United Nations General Assembly and the United Nations Economic Commission for Europe Prague symposium on environmental problems.

The participating States are resolved that co-operation in the field of the environment will be implemented in particular through:

— exchanges of scientific and technical information, documentation and research results, including information on the means of determining the possible effects on the environment of technical and economic activities;

— organization of conferences, symposia and meetings of experts;

— exchanges of scientists, specialists and trainees;

— joint preparation and implementation of programmes and projects for the study and solution of various problems of environmental protection;

— harmonization, where appropriate and necessary, of environmental protection standards and norms, in particular with the object of avoiding possible difficulties in trade which may arise from efforts to resolve ecological problems of production processes and which relate to the achievement of certain environmental qualities in manufactured products;

— consultations on various aspects of environmental protection, as agreed upon among countries concerned, especially in connexion with problems which could have international consequences.

The participating States will further develop such co-operation by:

— promoting the progressive development, codification and implementation of international law as one means of preserving and enhancing the human environment, including principles and practices, as accepted by them, relating to pollution and other environmental damage caused by activities within the jurisdiction or control of their States affecting other countries and regions;

— supporting and promoting the implementation of relevant international Conventions to which they are parties, in particular those designed to prevent and combat marine and fresh water pollution, recommending States to ratify Conventions which have already been signed, as well as considering possibilities of accepting other appropriate Conventions to which they are not parties at present;

— advocating the inclusion, where appropriate and possible, of the various areas of co-operation into the programmes of work of the United Nations Economic Commission for Europe, supporting such co-operation within the framework of the Commission and the United Nations Environment Programme, and taking into account the work of other competent international organizations of which they are members;

— making wider use, in all types of co-operation, of information already available from national and international sources, including internationally agreed criteria, and utilizing the possibilities and capabilities of various competent international organizations.

The participating States agree on the following recommendations on specific measures:

— to develop through international co-operation an extensive programme for the monitoring and evaluation of the long-range transport of air pollutants, starting with sulphur dioxide and with possible extension to other pollutants, and to this end to take into account basic elements of a co-operation programme which were identified by the experts who met in Oslo in December 1974 at the invitation of the Norwegian Institute of Air Research;

— to advocate that within the framework of the United Nations Economic Commission for Europe a study be carried out of procedures and relevant experience relating to the activities of Governments in developing the capabilities of their countries to predict adequately environmental consequences of economic activities and technological development.

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Annex II

ECE RESOLUTION 1 (XXXIII), PART II

1 (XXXIII)—THE WORK AND FUTURE ACTIVITIES OF THE COMMISSION AND THE PROPOSAL IN REGARD TO THE HOLDING OF ALL-EUROPEAN CONGRESSES OR INTER-STATE CONFERENCES ON CO-OPERATION IN THE FIELD OF PROTECTION OF THE ENVIRONMENT, DEVELOPMENT OF TRANSPORT, AND ENERGY

The Economic Commission for Europe,

……

II.

1. *Welcomes* the work of the Senior Advisers to ECE Governments on Environmental Problems and the Executive Secretary's reports E/ECE/936 and E/ECE/937, in response to part II of resolution 1 (XXXII), concerning a high-level meeting on the protection of the environment within the framework of the ECE;

2. *Expresses* confidence that satisfactory preparatory work by the Senior Advisers on the topics as referred to in paragraph 5 below and in particular on the subjects of long-range transboundary air pollution and low- and non-waste technology and reutilization and recycling of wastes would, taking into account the criteria set out earlier in this resolution, permit the prompt convening of a high-level meeting within the framework of the ECE;

3. *Agrees* that further and detailed work by the Senior Advisers is needed to prepare important decisions, including the possible forms of appropriate agreements which would be adopted at a high-level meeting;

4. *Expresses* its determination to make every effort to bring the preparatory work to a successful conclusion so that such a meeting could be held in 1979;

5. *Decides* to request the Senior Advisers—taking into account the Executive Secretary's report E/ECE/936 and the views expressed at the thirty-third session of the Commission—to prepare on the topics listed below, and on any of the other topics enumerated in paragraph 4 of the above report on which the Senior Advisers may agree, recommendations and concrete proposals for important decisions to be submitted to a high-level meeting:

A. Long-range transboundary air pollution, including:
    (i) Development of policies and strategies as a means of combating the discharge of atmospheric pollutants, including the harmonization of emission control policies relevant to the reduction of long-range transboundary air pollution, starting with sulphur dioxide, and taking account of all relevant factors including damage caused by the pollutants, cost estimates, and the cost of reducing discharges, and of local remedies;
    (ii) Intergovernmental co-operation in research and development on methods to reduce sulphur dioxide discharges and to study their effects on health and the environment;
    (iii) Exchange of information concerning new and existing sources of pollution;
    (iv) Implementation and further development of the Co-operative Programme for the Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe;
    (v) Development of procedures aimed at avoiding disputes concerning damage caused to the environment by atmospheric pollution;
    (vi) Possible form of an agreement on the above points.

B. Low- and non-waste technology and reutilization and recycling of wastes, including:
    (i) Support for research/development into low- and non-waste techniques, including the reutilization and recycling of waste; application of such techniques in certain branches of industry which have considerable repercussions on the environment;
    (ii) Encouragement for industrial co-operation and trade in licences and technical knowledge about products and processes based on "low- and non-waste techniques, including the reutilization and recycling of waste";
    (iii) Arrangements for the purpose of carrying out intergovernmental studies to illustrate the principal stages of introducing "low- and non-waste techniques, including the reutilization and recycling of waste";

(iv) Support for the rapid implementation of study projects by the ECE/UN;

(v) Stimulation of the exchange of information among member Governments on the type and magnitude of incentives utilized to encourage non-waste technology and on the methods used in reaching decisions whether (or not) to proceed with the development of non-waste technology for various types of industries;

(vi) Possible form of an agreement of the above points.

6. *Further decides* to review constructively at its thirty-fourth session the preparatory work of the Senior Advisers, with a view to taking decisions on a high-level meeting within the framework of the ECE on the protection of the environment;

7. *Requests* the Senior Advisers to meet in Special Sessions to carry out these responsibilities and asks the Executive Secretary to convene a first such Special Session as soon as possible, preferably in June 1978. The Senior Advisers may create special groups as deemed appropriate;

8. *Draws to the attention* of member Governments the discussion at the thirty-third session of the Commission on the Soviet Government's proposal for the holding of all-European congresses in the fields of transport and energy, and *recalls* the suggestion in decision B (XXXI) that member Governments should study the proposal thoroughly in the light of discussion in the Commission and the relevant provisions of the Final Act of the CSCE.

9. *Asks* the Executive Secretary to circulate such views in regard to the proposal as member Governments may wish to communicate to him;

10. *Endorses* the ongoing activities in the framework of the Commission's programme of work on General Energy Problems in the ECE Region;

11. *Acknowledges* the important role of an extensive exchange of information and views between member Governments on energy resources and governmental objectives and policies in this area, thus providing a basis for closer international co-operation on energy matters;

12. *Expresses* its wish to consider constructively at its thirty-fourth session the establishment of a new Principal Subsidiary Body entitled "Senior Advisers to ECE Governments on Energy", and its possible mandate for further co-operation on energy within the framework of the ECE.

……

14th meeting
22 April 1978

Annex III

IMPLEMENTATION OF COMMISSION RESOLUTION 1 (XXXIII)— EXCERPTS FROM THE REPORT OF THE SENIOR ADVISERS TO ECE GOVERNMENTS ON ENVIRONMENTAL PROBLEMS (ECE/ENV/29)

1. REVIEW OF ACTIVITIES

Introduction

1. Pursuant to resolution 1 (XXXII) of the Economic Commission for Europe the Executive Secretary, with the assistance of the Senior Advisers to ECE Governments on Environmental Problems, carried out "a detailed analysis of topics which, in the light of the views of member governments, may be appropriate for consideration at a high-level meeting within the framework of the ECE on the protection of the environment" (ENV/R. 67). The results of this analysis were reviewed at the thirty-third session and, in resolution 1 (XXXIII), the Commission agreed that further detailed work by the Senior Advisers was needed "to prepare important decisions, including the possible forms of appropriate agreements which would be adopted at a high-level meeting". The Commission therefore requested the Senior Advisers to elaborate "recommendations and concrete proposals for important decisions to be submitted to a high-level meeting" on the subjects of long range transboundary air pollution, low- and non-waste technology and reutilization and recycling of wastes, "and on any of the other topics enumerated in paragraph 4 (of E/ECE/936) on which the Senior Advisers may agree". The Senior Advisers were requested to meet in special sessions to carry out these responsibilities and were given authority to create special groups as deemed appropriate.

2. In fulfilment of the request from the Commission, the Senior Advisers undertook a programme of activities which is briefly described in the following paragraphs. At the third special session the Senior Advisers agreed to prepare a separate report on the implementation of Commission resolution 1 (XXXIII), Part II (ECE/ENV/26, para. 24). For the sake of clarity, these activities are described under subject headings. (A chronological list of meetings and an index to the principal documents are set out in the annex).

3. At their first special session (7 to 9 June 1978) the Senior Advisers created two special groups to elaborate proposals on the subjects explicitly mentioned in the Resolution: (a) long-range transboundary air pollution, and (b) low- and non-waste technology and reutilization and recycling of wastes. In regard to other topics for a high-level meeting on the protection of the environment, the Senior Advisers agreed that "transboundary water pollution" and "protection of native flora and fauna and their habitats" should be considered at an expert meeting in September 1978, the results of which should be presented to the seventh session of the Senior Advisers in February 1979 (ECE/ENV/21, para. 16). The Senior Advisers subsequently held two further special sessions, in October and December 1978, in order to review the work of the special groups.

Long-range Transboundary Air Pollution

4. At its first meeting (3-4 July 1978) the Special Group on Long-range Transboundary Air Pollution recognized the need to obtain information on substantive matters from governments and international organizations. A list of items on which information was particularly requested was prepared (ENV/AC.9/2, annex I). Subsequently, a circular letter, dated 17 July 1978, was addressed by the Executive Secretary of the Economic Commission for Europe to member governments; similar requests were also sent to international organizations early in August 1978. At this meeting of the Special Group, a "Draft convention for the ECE region on reduction of emissions causing transboundary air pollution" and a "Memorandum on major elements to be considered for inclusion in an annex on emissions of sulphur compounds" were introduced by the delegation of Finland on behalf of the governments of Denmark, Finland, Iceland, Norway and Sweden. These items subsequently became known as the "Nordic proposal".

5. The officers of the Special Group met from 11 to 13 September 1978 and agreed on the outline of the first part (technical aspects) of a synthesis report (ENV/AC.9/R.1, annex I). The secretariat was requested to prepare a draft of a second part, which would contain a summary of the proposals submitted by governments concerning areas of possible future international co-operation on the subject of long-range transboundary air pollution. The officers agreed that the second meeting of the Special Group should be invited to concentrate its discussion on (a) the draft outline of Part I of the synthesis report; (b) proposals for international co-operation; and (c) the report of the Bureau for the Steering Body to the Co-operative Pro-

gramme for the Monitoring and Evaluation of the Long-range Transport of Air Pollutants in Europe (ENV/AC.9/R.1, para. 9).

6. The second meeting of the Special Group (2 to 4 October 1978) approved the draft outline of Part I of the synthesis report and took note of Part II (ENV/AC.9/R.2). During the discussion of proposals for international co-operation, the delegation of Norway explained the objectives of the two principal components of the "Nordic proposal" (ENV/AC.9/4, annex I), and several delegations proposed specific amendments (ENV/AC.9/4, annex II). A proposal for "All-European monitoring of the state of the environment" was presented by the delegation of Hungary on behalf of the governments of Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland and the USSR. Proposals for international co-operation, particularly in regard to research activities related to long-range transboundary air pollution, were also made by the delegation of the United States (ENV/AC.9/4, annex III).

7. The Senior Advisers, at their second special session, reviewed the interim report of the Special Group and requested it to continue its work.

8. The third meeting of the Special Group (2 to 3 November) was devoted to an evaluation of the common elements included in all the proposals that had been made for international co-operation. In particular, several articles in the Nordic "draft convention" were reviewed and further changes and amendments were proposed. It was felt that the ideas and principles incorporated in Articles 2 to 7 of this draft convention provided elements on which agreement might be reached (ENV/AC.9/6, para. 13). The delegation of the Federal Republic of Germany, on behalf of the European Economic Community, tabled a proposal covering: the need to approve a definition of air pollution and of long-distance pollution; reaffirmation of the intention to succeed in action to protect man and his environment; the value of participation in a continuous monitoring programme and of greater exchanges of information; and the need for a specific research programme.

9. At the fourth meeting of the Special Group (28 November to 1 December) note was taken of Part I of the draft synthesis report. Numerous proposals for international co-operation that had been made (ENV/AC.9/8, annex I, appendix) were used to elaborate a text entitled "Elements for a document on long-range transboundary air pollution" (ENV/AC.9/8, annex I). The meeting felt that further work on this text was required, and this view was endorsed by the Senior Advisers at their third special session in December. The Senior Advisers requested the Special Group to continue its work and to elaborate proposals on outstanding points (ECE/ENV/26, para. 14).

10. The Special Group held its fifth meeting from 15 to 19 January 1979. The delegation of the United States presented a document on long-range transboundary air pollution which, utilizing the elements on which agreement had already been reached, offered possible compromise wordings on elements where agreement had so far proved difficult and which also contained possible elements for those items that had not yet been considered by the Special Group. The delegation of Canada submitted a document which, while also utilizing the elements that had been agreed, provided a comprehensive expression of the views of the Government of Canada on appropriate co-operative international action in regard to long-range transboundary air pollution. Further progress was made on the elaboration of the "Elements for a document on long-range transboundary air pollution", and the Special Group completed consideration of all the points set out in the relevant sections of Commission resolution I (XXXIII). On those elements where it had not been possible to reach agreement, several delegations took the opportunity to state their views, and the report of the meeting (ENV/AC.9/10) contains several proposals for alternative wordings of such elements. With regard to certain paragraphs in the list of elements, some delegations expressed their reservations. (Consideration of this topic was continued at the seventh session of the Senior Advisers—see para. 21.)

Low- and Non-waste Technology and Reutilization and Recycling of Wastes

11. At its first meeting (5 to 7 July 1978) the Special Group on Low- and Non-waste Technology and Reutilization and Recycling of Wastes decided to invite governments and international organizations to submit information; this request was made in a circular letter of the Executive Secretary of ECE (see para. 4 above).

12. The officers of the Special Group met from 7 to 8 September 1978 and prepared an analysis of the replies received from governments up to that time (ENV/AC.10/R.2, paras. 5-29). It was felt that the Special Group should propose to the Senior Advisers that further work should focus on the drafting of a framework document containing (a) a declaration of intent; (b) agreements on specific co-operative activities within the framework of ECE; and (c) agreements on appropriate machinery for following-up the decisions of a high-level meeting. The possible content of such a declaration and agreements was outlined (ENV/AC.10/R.2, paras. 30-33).

13. The second meeting of the Special Group (4 to 6 October 1978) examined the report of the officers, taking into account additional information that had been received from governments and international organizations. The delegation of the USSR submitted the preliminary draft of a "Declaration on measures to promote a speedy development and implementation of low- and non-waste technological processes" (ENV/AC.10/4).

14. At their special session later in October, the Senior Advisers endorsed the proposals for the future work of the Special Group.

15. During the third meeting of the Special Group (27 to 29 November 1978) further proposals were submitted by the Government of Sweden as well as by the Government of the Federal Republic of Germany, on behalf of the European Economic Community. On the basis of these proposals, the proposal by the

Government of the USSR (mentioned above in para. 13), and the views expressed during the meeting, a document entitled "Agreed Elements for a Draft Declaration of Intent" was prepared, containing two sections: (a) Preamble; and (b) Operative paragraphs (ENV/AC.10/6, annex). This work was continued at the fourth meeting of the Special Group (11 to 12 December 1978), and agreement was reached on draft elements of recommendations for action concerning (a) national action; (b) international co-operative activities within the framework of ECE; (c) recommendations for follow-up activities (ENV/AC.10/8, annex).

16. The Senior Advisers, at their third special session in December 1978, agreed that the Special Group had fulfilled its mandate, and it was decided that final discussion and approval of the texts presented by the Special Group, and amendments to those texts, should be deferred to the seventh session of the Senior Advisers. (Consideration of this topic was continued at the seventh session of the Senior Advisers—see para. 22.)

Other topics

17. In regard to the topics of "transboundary water pollution" and "protection of native flora and fauna and their habitats", the Expert Meeting on Environmental Topics (18-21 September 1978) took into consideration documents that had been prepared by the Governments of Hungary and Yugoslavia and Czechoslovakia. On the subject of transboundary water pollution, there was general agreement that the protection and rational use of water resources, in particular those concerning transboundary waters, were problems of high priority in the ECE region and should be part of the general policy for the protection of the environment (ENV/AC.11/2, para. 14). There was, however, a divergence of views on whether it was appropriate for this topic to be discussed at the proposed high-level meeting on the protection of the environment. A summary of the various proposals that had been made was prepared by an informal drafting group (ENV/AC.11/2, para. 15) and several delegations expressed their willingness to submit it to their respective authorities for consideration. The secretariat was asked to prepare a summary of current activities in regard to water within ECE as well as in other competent international fora (subsequently circulated as ENV/R. 99). It was indicated at the third special session of the Senior Advisers that the revised draft declaration of policy on prevention and control of water pollution, including transboundary water pollution, would be presented to the Senior Advisers at their seventh session for information.

18. In discussing the topic of the protection of native flora and fauna and their habitats, delegations generally recognized the need for international co-operation in view of the serious impact of present development patterns (ENV/AC.11/2, para. 19). Several proposals were made concerning the form that such co-operation might take, but no unanimity of view was reached on whether the Senior Advisers should be recommended to propose the inclusion of the topic in the agenda of a high-level meeting. The secretariat was requested to prepare a summary of the various proposals that had been made (subsequently circulated as ENV/R.98).

19. At the meeting the delegation of the USSR made a statement on the advisability of including the topic "toxic substances and toxic compounds" in the agenda of the proposed high-level meeting. Different views were expressed concerning both the suitability of this subject and the ability of the meeting to discuss the matter. (Consideration of the other topics mentioned in paragraphs 17 to 19 was continued at the seventh session of the Senior Advisers—see paras. 23-26).

Seventh session of the Senior Advisers

20. At the seventh regular session of the Senior Advisers, 19 to 23 February 1979, these matters were taken up under item 4 of the agenda: "Work on the preparation of recommendations and concrete proposals to be submitted to a high-level meeting on the protection of the environment within the framework of ECE". The activities that had taken place in response to Part II of Commission Resolution 1 (XXXIII) were reviewed, on the basis of reports by the chairmen of the two special groups and by the chairman of the Expert meeting on environmental topics.

21. In regard to the topic of long-range transboundary air pollution, the Nordic countries indicated their readiness to accept that concrete measures to control transboundary air pollution caused by sulphur compounds could be taken later than those countries had proposed originally, and that these measures could be implemented progressively, following a timetable established by common agreement and set out in an annex to a framework convention or framework agreement. As a result of informal consultation among certain countries, a "Provisional text for negotiation" was presented on behalf of the European Economic Community[1]. This, it was pointed out, showed that the countries taking part in the informal consultations had been able to reach agreement on a number of hitherto unresolved points. No common view had yet emerged, however, on the form that a final agreement might take; further work was also needed on alternative approaches to a number of substantive points, several of which were closely related to the question of form. It was noted that several paragraphs in the "Provisional text for negotiation" needed clarification. The delegation of Norway circulated for consideration an alternative to paragraph 9 of this text and a "Draft Protocol concerning negotiation of an annex on sulphur compounds". It was recognized that many delegations had not taken part in the informal discussions leading to the preparation of the "Provisional text for negotiation" and that it would be necessary to refer the document to national governments for detailed analysis.

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[1] Some delegations expressed a reservation concerning this phrase which, in their view, should read "on behalf of the member countries of the European Economic Community".

22. During the session of the Senior Advisers, the chairman of the Special Group on low- and non-waste technology and reutilization and recycling of wastes convened an informal meeting of the officers of the Special Group. A new formulation of the recommendations for follow-up action was developed, and the revised text was circulated to all delegations. Taking this into account, the Senior Advisers endorsed the texts of the annexes of documents ENV/AC.10/6 and ENV/AC.10/8 and considered that, in substance, they were ready for presentation to the thirty-fourth session of the Commission. They also considered that these texts could form an appropriate basis for the formulation of important political decisions of concern to all ECE countries. Some delegations, however, expressed the view that the topic in itself did not constitute a sufficient basis for a high-level meeting.

23. In regard to the other topics referred by the Commission to the Senior Advisers for consideration, it was generally agreed that the three topics were at different stages of development when considered as possible subjects for inclusion in the agenda of a high-level meeting.

24. The serious environmental problems resulting from transboundary water pollution in the region were widely recognized. In the view of many delegations, current work in ECE to promote intergovernmental co-operation was sufficient to warrant the Senior Advisers recommending the topic for inclusion on the agenda for a high-level meeting. It was suggested in this context that the Commission, at its thirty-fourth session, might wish to invite the Committee on Water Problems or its sub-bodies to accelerate and, as soon as possible, complete work on the draft declaration of policy on the prevention and control of water pollution, including transboundary pollution, with a view to submitting this text for consideration within the framework of preparations for the high-level meeting on the protection of the environment. In this connexion, it was also pointed out that the declaration would be of great importance for the promotion of international environmental law. Other delegations felt that there would be insufficient time for the development of a suitable document for consideration at a high-level meeting; and there were additional reasons why the topic might not meet the criteria.

25. There was general agreement that action in regard to "Protection of native flora and fauna and their habitats" should be initiated within the framework of ECE. Several delegations considered that existing proposals for significant activities could be developed and ought to be given the authority of a decision at a high-level meeting. Closer intergovernmental co-operation was required, because rapid economic development threatened natural habitats and the protection of many species could not be ensured within national boundaries. However, some delegations expressed the view that, if ECE was going to play an effective role in this new field of activity, it would take time to define a work programme which adequately recognized existing international work and responded to actual needs. The Senior Advisers agreed to include this topic in their programme of work.

26. In respect of toxic substances and toxic compounds, the view was expressed that the proposed high-level meeting could hardly ignore such a currently important and pervasive environmental problem. Nevertheless, it was recognized that it would be difficult to develop recommendations and concrete proposals on this topic in the time available. In view of the promising co-operative activities included in the WHO International Programme on Chemical Safety, it was felt that the Senior Advisers should consider strengthening their related work, while giving support to activities in other international fora.

27. Taking into account all these considerations, the Senior Advisers decided that it would be necessary to reconvene from 21 to 23 March in order to complete discussion of the subject of item 4 of their agenda and to prepare a special report to the Commission.

Fourth special session of the Senior Advisers

28. At the fourth special session, the Senior Advisers worked for much of the time as an open-ended drafting group to prepare a possible draft "Convention on long-range transboundary air pollution", based on the "Provisional text for negotiation" (see para. 21, above) and other proposals. A "Working document for a draft resolution", containing some elements that had been found controversial as part of a draft convention, was introduced in the name of several governments; it was proposed that a final version of this document should be recommended for submission to a high-level meeting in conjunction with the possible draft Convention.

29. On the basis of a draft text prepared by the secretariat in consultation with the officers, the meeting agreed on the form and content of the present special report of the Senior Advisers to the thirty-fourth session of the Commission. It was decided that this report should contain recommendations and concrete proposals for important decisions to be taken by a high-level meeting on the topics of "long-range transboundary air pollution" and "low- and non-waste technology and reutilization and recycling of wastes". Some delegations, while maintaining that the other environmental topics referred to the Senior Advisers for consideration were not sufficiently developed to warrant important decisions at a high-level meeting, felt that a general discussion on environmental problems affecting the ECE region, notably water pollution problems of international interest, would be useful. Other delegations wished to recommend the inclusion of the additional topics as specific items on the agenda of a high-level meeting; particular attention was drawn to the current work on a draft declaration of policy on prevention and control of water pollution, including transboundary pollution (see para. 24 above). In this context, one delegation reminded the meeting that the problem of water quality in the ECE region was serious, and easily measured. If the political will existed, gradual and effective improvements could be achieved. However, because of the resistant attitude of a few governments with bilateral problems, the region was being prevented from taking a small co-operative step towards solutions.

Annex

Chronological List of Meetings held by or under the Auspices of the Senior Advisers to ECE Governments on Environmental Problems in Fulfilment of the Mandate given in Commission resolution 1 (XXXIII)

Meeting	Date	ECE Documents	
	1978	Agenda	Report
First special session of the Senior Advisers to ECE Governments on Environmental Problems (SAEP)	7-9 June	ECE/ENV/20	ECE/ENV/21
First meeting of the Special Group on Long-range Transboundary Air Pollution (SG/LRTAP)	3-4 July	ENV/AC.9/1	ENV/AC.9/2
First meeting of the Special Group on Low- and Non-Waste Technology and Reutilization and Recycling of Wastes (SG/LNWTRRW)	5-7 July	ENV/AC.10/1	ENV/AC.10/2
Meeting of the Officers of SG/LNWTRRW	7-8 Sept.		ENV/AC.10/R.2
Meeting of Officers of SG/LRTAP	11-13 Sept.		ENV/AC.9/R.1
Expert Meeting on Environmental Topics	18-21 Sept.	ENV/AC.11/1	ENV/AC.11/2
Second meeting of SG/LRTAP	2-4 Oct.	ENV/AC.9/3	ENV/AC.9/4
Second meeting of SG/LNWTRRW	4-6 Oct.	ENV/AC.10/3	ENV/AC.10/4
Second special session of SAEP	11-13 Oct.	ECE/ENV/22	ECE/ENV/23
Third meeting of SG/LRTAP	2-3 Nov.	ENV/AC.9/5	ENV/AC.9/6
Third meeting of SG/LNWTRRW	27-29 Nov.	ENV/AC.10/5	ENV/AC.10/6
Fourth meeting of SG/LRTAP	28 Nov.-1 Dec.	ENV/AC.9/7	ENV/AC.9/8
Fourth meeting of SG/LNWTRRW	11-12 Dec.	ENV/AC.10/7	ENV/AC.10/8
Third special session of SAEP	13-15 Dec.	ECE/ENV/25	ECE/ENV/26
	1979		
Fifth meeting of SG/LRTAP	15-19 Jan.	ENV/AC.9/9	ENV/AC.9/10
Seventh session of SAEP	19-23 Feb.	ECE/ENV/27	ECE/ENV/28
Meeting of the Officers of SG/LNWTRRW	20 Feb.		
Fourth special session of SAEP	21-23 March	ECE/ENV/30	ECE/ENV/31

Annex IV

ECE RESOLUTION 1 (XXXIV) AND DECISION A (XXXIV)

RESOLUTION

1 (XXXIV)—THE WORK AND FUTURE ACTIVITIES OF THE COMMISSION AND THE PROPOSAL IN REGARD TO THE HOLDING OF ALL-EUROPEAN CONGRESSES OR INTER-STATE CONFERENCES ON CO-OPERATION IN THE FIELD OF PROTECTION OF THE ENVIRONMENT, DEVELOPMENT OF TRANSPORT, AND ENERGY

The Economic Commission for Europe,

Recalling its resolution 1 (XXXIII), and in particular the determination of its member countries to continue to intensify efforts to promote economic relations and co-operation; the significance of the activities of the ECE for strengthening such relations and co-operation and of being a useful instrument for the implementation of the principles and aims of the United Nations Charter at the regional level; the role of the ECE in the multilateral implementation of the pertinent provisions of the Final Act of the Conference on Security and Co-operation in Europe and the wish of the participating States to "take advantage of the possibilities offered by relevant international organizations, in particular by the United Nations Economic Commission for Europe, for giving effect to the provisions of the final documents of the Conference",

Having considered the reports of its subsidiary bodies on their activities, the notes and reports by the Executive Secretary, including his reports E/ECE/964 and E/ECE/982, the programme of work for the Commission for 1979-1980 as well as the long term programme of work for 1979-1983, and *noting* that during the thirty-fourth session delegations have raised a number of points concerning the Commission's programme of work,

Welcoming the further progress made in the implementation of the Commission's work programme, pursuant to Commission resolution 1 (XXXIII), on topics in the Final Act of the CSCE requiring multilateral implementation and referred to in the section of that Act entitled "Co-operation in Fields of Economics, of Science and Technology and of the Environment",

Believing that active work and joint efforts in developing further the co-operation within the framework of the ECE serves the interests of all member countries, irrespective of their systems including those which are developing from an economic point of view,

Recognizing that the strengthening of regional co-operation contributes to solving the pressing problems of world development and promoting economic growth within the region as well as in countries outside the region, and hence peace and security in the world,

Noting with satisfaction the Commission's contribution to the United Nations programmes designed to assist developing countries, as well as its successful co-operation with other international organizations,

Agreeing that the activities of the ECE should continue to concentrate on the priority areas of the development of trade, science and technology, environment, and economic projections, and that due regard should be paid to other pertinent areas of co-operation,

Recalling the Soviet Government's proposal in regard to the holding of all-European congresses or inter-State conferences on co-operation in the field of protection of the environment, development of transport and energy, and the suggestion in decision B (XXXI) that member Governments should study the proposal thoroughly in the light of discussion in the Commission and the relevant provisions of the Final Act of the CSCE,

Recalling, at the same time, the view expressed by the Executive Secretary in his report E/ECE/911 to the thirty-second session of the Commission that the authority of the ECE could be reinforced, and its work in the relevant area given an additional impetus, by high-level meetings properly prepared and held within the ECE at an appropriate moment,

Reaffirming that any high-level meeting within the framework of the ECE would require a precise and carefully prepared agenda; that the subject-matter should require a high-level of representation; that such a meeting should hold promise of important decisions; that the topics for consideration should be of concern to the region as a whole, and not lead to unnecessary duplication of the work of other international organizations,

Having considered the Executive Secretary's report E/ECE/964 on the Commission's activities and implementation of priorities in 1978, and the report ECE/ENV/29 of the Senior Advisers to ECE Governments on Environmental Problems regarding implementation of Commission resolution 1 (XXXIII) Part II,

1. *Calls upon* the member Governments to continue to take full advantage of the potential of the Economic Commission for Europe as an instrument for strengthening economic relations and multilateral co-operation in the region;

2. *Reiterates* its earlier decisions to continue to intensify co-operation among member countries in the framework of the work programme of the ECE, and *reaffirms* the determination of member Governments to work towards an effective multilateral implementation of the pertinent provisions of the Final Act of the CSCE within the framework of the ECE, bearing in mind the importance of the principles and aims of the United Nations Charter at the regional level; and *requests* its subsidiary bodies to continue to take into account, for their work, the pertinent provisions of the Final Act which call for multilateral implementation within the framework of the ECE;

3. *Notes with satisfaction* that the Executive Secretary stated his views at the Meeting of Experts foreseen by the Final Act in order to prepare a "Scientific Forum" which took place in Bonn in June 1978, and that he made contributions relating to the work of the Meeting of Experts on the Mediterranean which recently took place in Valletta within the framework of the Mediterranean chapter of the Final Act, and *asks* him to participate, if invited to do so, in activities resulting from these meetings, and to make the necessary arrangements to that effect;

4. *Reiterates* its previous call to its subsidiary bodies to take duly into account when reviewing and carrying out their programmes of work the interests of member countries which are developing from an economic point of view; to this effect the Executive Secretary will take the necessary measures;

5. *Requests* its subsidiary bodies to take into account in their activities the possible contributions of the ECE to the United Nations programmes designed to assist developing countries, and the necessity of effective co-operation with other international organizations;

6. *Requests* the Executive Secretary to continue contacts with the Executive Secretaries of the other regional commissions of the United Nations concerning the co-operation between the ECE and other regional commissions on problems of common interest, having in mind also the resolutions of the General Assembly and of the Economic and Social Council of the United Nations, and to inform the Commission accordingly;

7. *Notes with satisfaction* the work of the Senior Advisers to ECE Governments on Environmental Problems in accordance with part II of resolution 1 (XXXIII) concerning a high-level meeting within the framework of the ECE on the protection of the environment as contained in document ECE/ENV/29;

8. *Agrees* that following completion and acceptance by the Commission of the draft convention and draft resolution on long-range transboundary air pollution and the draft declaration on low- and non-waste technology and re-utilization and recycling of wastes as contained in Commission document E/ECE (XXXIV)/L.18 and in Annex B to document ECE/ENV/29 respectively, the above-mentioned criteria for the convening of a high-level meeting on the protection of the environment within the framework of the ECE have been met;

9. *Decides* therefore to convene the high level meeting on the protection of the environment from 13 to 16 November 1979 and, in this regard, draws to the attention of member Governments decision A (XXXIV);

10. *Reiterates* the importance of an extensive exchange of information and views between member Governments on general energy problems, including energy resources, and national objectives and policies in these areas, thus providing a basis for closer international co-operation on energy matters and, *inter alia*, for discussion of problems related to a possible high-level meeting on energy organized within the framework of the ECE;

11. *Decides* to establish on an *ad hoc* basis a new Principal Subsidiary Body entitled Senior Advisers to ECE Governments on Energy and draws to the attention of member Governments decision B (XXXIV);

12. *Reiterates* the suggestion in resolution 1 (XXXIII) that member Governments should study thoroughly the USSR Government's proposal for the holding of all-European congresses in the fields of transport and energy in the light of further discussions in the Commission and the relevant provisions of the Final Act of the CSCE;

13. *Asks* the Executive Secretary to circulate such views in regard to the proposal as member Governments may wish to communicate to him;

14. *Approves* its programme of work for 1979/80 and endorses in principle, subject to review at its thirty-fifth session, its long-term programme of work for 1979-1983;

15. *Endorses* the Executive Secretary's conclusions relating to increasing efficiency in methods of work as contained in document E/ECE/964 and *reiterates* that continued efforts should be made for better concentration, integration and co-ordination of the ECE activities and, in this respect, draws to the attention of member Governments and the subsidiary bodies its decision D (XXXIV),

16. *Requests* its subsidiary bodies, as well as the Executive Secretary, to take into account in their work and when reviewing their respective programmes this resolution, the decisions of the Commission, and the

points raised by delegations and reported in the relevant passages of the summary records and the reports of this session in as much as they are addressed therein; and

17. *Requests* the Executive Secretary to transmit the present resolution as well as the other decisions of this session, together with the views expressed or agreed in relation thereto by member Governments, to the Principal Subsidiary Bodies concerned for their guidance.

15th meeting
27 April 1979

DECISION

A (XXXIV)—HIGH-LEVEL MEETING WITHIN THE FRAMEWORK OF THE ECE ON THE PROTECTION OF THE ENVIRONMENT

The Economic Commission for Europe,

Recalling its resolution 1 (XXXIV) and in particular its decision to hold a high-level meeting within the framework of the ECE on the protection of the environment;

Bearing in mind that environmental problems are increasing in scope and that their implications may involve large material, financial and human resources,

Acknowledging that, in accordance with the chapter on Environment of the Final Act of the Conference on Security and Co-operation in Europe, economic development and technological progress must be compatible with the protection of the environment, that damage to the environment is best avoided by preventive measures and that every suitable opportunity should be made use of to co-operate in the field of environment,

Aware of the activities of other competent United Nations organs and international organizations in this matter,

Having examined the report of the Senior Advisers to ECE Governments on Environmental Problems as reflected in document ECE/ENV/29 and amended the proposals contained in Annex A to this document,

Considering that the preparatory work on long-range transboundary air pollution, and low- and non-waste technology and re-utilization and recycling of wastes which has been completed by the Commission at its present session, as contained in Commission document E/ECE (XXXIV)/L.18 and in Annex B to document ECE/ENV/29, has therefore been brought to a satisfactory conclusion,

Agreeing that the treatment of these two topics would require a high level of representation, that a high-level meeting holds promise of important decisions, and that the subject-matter is of concern to the region as a whole and would not lead to unnecessary duplication of the work of other international organizations,

Considering moreover that during the high-level meeting a general exchange of views on the other topics considered by the Senior Advisers to ECE Governments on Environmental Problems, namely water pollution including transboundary water pollution, protection of native flora and fauna and their habitats, and toxic substances and toxic wastes could be useful,

1. *Decides* to convene the high-level meeting on the protection of the environment from 13 to 16 November 1979;

2. *Agrees* that the following draft documents be submitted to the high-level meeting for formal adoption;

   A. Convention and Resolution on Long-range Transboundary Air Pollution,

   B. Declaration of Intent and Recommendations for National Action and International Co-operative Activities including Follow-up Activities within the Framework of the ECE in the field of low- and non-waste technology and re-utilization and recycling of wastes;

and, for this purpose, *asks* the Executive Secretary to convene an *ad hoc* group of experts to finalize the legal and linguistic editing of Commission document E/ECE (XXXIV)/L.18 and Annex B to document ECE/ENV/29, as necessary, from 11 to 15 June 1979;

3. *Invites* the Executive Secretary to make the necessary preparations for the high-level meeting and to draw up the following agenda:

   1. Adoption of the agenda
   2. Election of Officers
   3. General debate on the environmental situation in the ECE region, in particular long-range transboundary air pollution and low- and non-waste technology and re-utilization and recycling of wastes, and also other environmental problems dealt with in the ECE, *inter alia,* water pollution including transboundary water pollution
   4. Formal adoption of the Convention and Resolution on Long-range Transboundary Air Pollution, the Declaration of Intent and Recommendations for National Action and International Co-operative Activities including Follow-up Activities within the Framework of the ECE in the field of low- and non-waste technology and re-utilization and recycling of wastes
   5. Other business
   6. Adoption of the report

4. *Invites* the Executive Secretary to report on the implementation of this decision to the thirty-fifth session of the Commission.

15th meeting
27 April 1979

Annex V

EXCERPTS FROM THE REPORT OF THE HIGH-LEVEL MEETING WITHIN THE FRAMEWORK OF THE ECE ON THE PROTECTION OF THE ENVIRONMENT,

Geneva, 13-15 November 1979

(ECE/HLM.1/2)

A. REPORT OF THE HIGH-LEVEL MEETING WITHIN THE FRAMEWORK OF THE ECE ON THE PROTECTION OF THE ENVIRONMENT

1. The High-level Meeting within the Framework of the Economic Commission for Europe on the Protection of the Environment was held in Geneva from 13 to 15 November 1979. The meeting was opened by the Executive Secretary of the Economic Commission for Europe, Mr. J. Stanovnik. A message from the Secretary-General of the United Nations was read by the Director-General of the United Nations Office at Geneva, Mr. L. Cottafavi. The chairman of the Economic Commission for Europe, Mr. F. Benito, welcomed the participants.

2. The meeting was attended by representatives from Austria; Belgium; Bulgaria; Byelorussian Soviet Socialist Republic; Canada; Cyprus; Czechoslovakia; Denmark; Finland; France; German Democratic Republic; Germany, Federal Republic of; Greece; Hungary; Iceland; Ireland; Italy; Luxembourg; Malta; Netherlands; Norway; Poland; Portugal; Romania; Spain; Sweden; Switzerland; Turkey; Ukrainian Soviet Socialist Republic; Union of Soviet Socialist Republics; United Kingdom of Great Britain and Northern Ireland; United States of America; and Yugoslavia.

3. Representatives of the Holy See, Liechtenstein and San Marino participated under Article 8 of the Commission's terms of reference.

4. A representative of Argentina participated under Article 11 of the Commission's terms of reference.

5. Representatives of the United Nations Industrial Development Organization (UNIDO); United Nations Environment Programme (UNEP); United Nations Development Programme (UNDP); United Nations Institute for Training and Research (UNITAR), and of the following specialized agencies and other intergovernmental organizations were in attendance: International Labour Organisation (ILO); Food and Agriculture Organization of the United Nations (FAO); United Nations Educational, Scientific and Cultural Organization (UNESCO); World Health Organization (WHO); World Meteorological Organization (WMO); Inter-Governmental Maritime Consultative Organization (IMCO); International Atomic Energy Agency (IAEA); Council for Mutual Economic Assistance (CMEA); and the European Economic Community (EEC).

6. The following non-governmental organizations were represented: Inter-Parliamentary Union (IPU); International Electro-technical Commission (IEC); International Union for Conservation of Nature and Natural Resources (IUCN); European Council of Chemical Manufacturers Federations (ECCMF); International Centre for Industry and Environment (ICIE); International Humanist and Ethical Union (IHEU); Sierra Club; World Peace Council (WPC); International Institute for Applied Systems Analysis (IIASA).

7. Also present at the invitation of the secretariat were representatives of the secretariats of the Council of Europe and of the Organisation for Economic Co-operation and Development (OECD).

8. The meeting adopted its agenda and order of business as contained in document ECE/HLM.1/1 and Add.1.

9. The meeting unanimously elected Mr. O. Johansson (Sweden) chairman and Mr. B. F. Straub (Hungary) vice-chairman. Mr. A. Czarkowski (Poland) and Mr. I. de Jong (Netherlands) were appointed rapporteurs.

10. The meeting adopted by acclamation the Convention on Long-range Transboundary Air Pollution, the Resolution on Long-range Transboundary Air Pollution and the Declaration on Low- and Non-waste Technology and Re-utilization and Recycling of Wastes. The texts of these documents are annexed to the present report (annexes I-III).

11. There was a general debate on the environmental situation in the ECE region, in particular long-range transboundary air pollution and low- and non-waste technology and re-utilization and recycling of wastes, and also other environmental problems dealt with in the ECE; especially water pollution including trans-

boundary water pollution, a question to which several delegations attached considerable importance. The meeting heard statements by the following representatives, who are listed here in the order in which they spoke: Mr. H. Hürlimann, Federal Councillor, Head of the Federal Department of the Interior of Switzerland; Mr. V. Kirillin, Vice-Chairman of the USSR Council of Ministers and Chairman of the USSR State Committee for Science and Technology; Mr. S. Barrett, Minister for the Environment for Ireland, who also spoke on behalf of the European Economic Community; Mr. L. Dhoore, Minister of Public Health and the Environment of Belgium; Mr. R. Hansen, Minister of the Environment of Norway; Mr. M. d'Ornano, Minister of the Natural and Built Environment of France; Dr. H. Reichelt, Vice-Chairman of the Council of Ministers and Minister for Environmental Protection and Water Management of the German Democratic Republic; Dr. L. Ginjaar, Minister for Health and Environmental Protection of the Netherlands; Mr. J. Kepa, Minister for Administration, Local Economy and Environment of Poland; Mr. G. R. Baum, Minister of the Interior of the Federal Republic of Germany; Mr. J. Koikkalainen, Minister of the Interior of Finland; Mr. B. F. Straub, Member of the Hungarian Academy of Sciences and Chairman of the National Council for Environment and Nature Protection of Hungary; Mr. J. Rettel, Ambassador, Permanent Representative of Luxembourg to the United Nations Office at Geneva; Mr. J. Fraser, Minister of the Environment of Canada; Mr. M. Fox, Parliamentary Under-Secretary, Department of the Environment of the United Kingdom of Great Britain and Northern Ireland; Mr. J. Hanus, Deputy Prime Minister of the Slovak Socialist Republic; Mr. M. Tolba, Executive Director of the United Nations Environment Programme; Mr. A. Gerner, Governmental Councillor of Liechtenstein, Minister of Public Health; Mr. J. Sancho Rof, Minister of Public Works and Urban Affairs of Spain; Mr. J. Jivkov, Member of the Council of State and Chairman of the Council on the Protection and Restoration of the Environment of Bulgaria; Mr. J. Kampmann, Director-General of the National Agency for Environmental Protection of Denmark; Mr. H. Salcher, Minister of Health and Environment of Austria; Mr. V. Ianovici, President of the National Council of Environment of Romania; Mr. D. Costle, Administrator of the Environmental Protection Agency of the United States of America; Mr. A. Dahlgren, Minister of Agriculture of Sweden; Mr. Z. Dragan, Vice-President of the Federal Executive Council of Yugoslavia; Mr. V. Scalia, Minister for Scientific and Technological Research, Delegate for Environmental Problems of Italy; Mr. V. F. Mitskevich, First Vice-Chairman of the Council of Ministers of the Byelorussian SSR; Mr. J. da Silva Bruschy, Secretary of State for Urban Affairs and the Environment of Portugal; Mr. I. P. Kotchevikh, Vice-President of the Council of Ministers of the Ukrainian SSR; Mr. H. Krøyer, Ambassador, Permanent Representative of Iceland to the United Nations Office at Geneva; Mr. S. Dimas, Secretary of State for Economic Co-ordination of Greece; Mr. L. Natali, Vice-President of the Commission of the European Communities; Mr. J. Szopa, Deputy Secretary of the Council for Mutual Economic Assistance; Mr. F. Karasek, Secretary-General of the Council of Europe; Mr. G. Eldin, Deputy Director-General of the Organization for Economic Co-operation and Development; Dr. L.A. Kaprio, Director of the World Health Organization Regional Office for Europe; Mr. S. Borg, Acting Permanent Representative of Malta to the United Nations Office at Geneva; Mr. P.-C. Terenzio, Secretary-General of the Inter-Parliamentary Union; Dr. D. A. Davies, Secretary-General of the World Meteorological Organization; Professor A. Berger, Director of the Institute of Astronomy and Geophysics, Catholic University of Louvain, on behalf of the Holy See. ....*

12. The meeting also received messages from: Mr. Leonid Brezhnev, General Secretary of the Central Committee of the Communist Party of the Soviet Union, Chairman of the Presidium of the USSR Supreme Soviet; Mr. György Laazaar, Prime Minister of the Hungarian People's Republic; Mr. Edward Gierek, First Secretary of the Central Committee of the Polish United Workers' Party; Mr. Todor Zhivkov, President of the State Council of the People's Republic of Bulgaria; and Mr. E. Honecker, General Secretary of the Central Committee of the Socialist Unity Party of Germany and Chairman of the Council of State of the German Democratic Republic. ....*

13. The meeting envisaged that as a result of its decisions, there would be an increased work load on the ECE secretariat and that, taking into account paragraph 2 of the Resolution on Long-range Transboundary Air Pollution. examination by the Senior Advisers to ECE Governments on Environmental Problems would be required of the extent of the work load and of the resources necessary to enable the secretariat to carry out this additional work effectively.

14. The meeting requested the Executive Secretary to inform the forthcoming Madrid meeting of the participating States of the Conference on Security and Co-operation in Europe of the results of the High-level Meeting within the Framework of the ECE on the Protection of the Environment, including its report and the texts of the documents adopted.

15. The meeting requested the Executive Secretary, in responding to the message transmitted by the Secretary-General of the United Nations, to apprise him of the report of the High-level Meeting within the Framework of the ECE on the Protection of the Environment with a view to his appropriately informing the General Assembly.

16. The report of the meeting was adopted on 15 November 1979.

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* The texts of the statements and messages were reproduced in annexes IV and V to the report of the High-Level Meeting.

B. CONVENTION ON LONG-RANGE TRANSBOUNDARY AIR POLLUTION

The Parties to the present Convention,

Determined to promote relations and co-operation in the field of environmental protection,

Aware of the significance of the activities of the United Nations Economic Commission for Europe in strengthening such relations and co-operation, particularly in the field of air pollution including long-range transport of air pollutants,

Recognizing the contribution of the Economic Commission for Europe to the multilateral implementation of the pertinent provisions of the Final Act of the Conference on Security and Co-operation in Europe,

Cognizant of the references in the chapter on environment of the Final Act of the Conference on Security and Co-operation in Europe calling for co-operation to control air pollution and its effects, including long-range transport of air pollutants, and to the development through international co-operation of an extensive programme for the monitoring and evaluation of long-range transport of air pollutants, starting with sulphur dioxide and with possible extension to other pollutants,

Considering the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, and in particular principle 21, which expresses the common conviction that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

Recognizing the existence of possible adverse effects, in the short and long term, of air pollution including transboundary air pollution,

Concerned that a rise in the level of emissions of air pollutants within the region as forecast may increase such adverse effects,

Recognizing the need to study the implications of the long-range transport of air pollutants and the need to seek solutions for the problems identified,

Affirming their willingness to reinforce active international co-operation to develop appropriate national policies and by means of exchange of information, consultation, research and monitoring, to co-ordinate national action for combating air pollution including long-range transboundary air pollution,

Have agreed as follows:

DEFINITIONS

Article 1

For the purposes of the present Convention:

(a) *"air pollution"* means the introduction by man, directly or indirectly, of substances or energy into the air resulting in deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment, and "air pollutants" shall be construed accordingly;

(b) *"long-range transboundary air pollution"* means air pollution whose physical origin is situated wholly or in part within the area under the national jurisdiction of one State and which has adverse effects in the area under the jurisdiction of another State at such a distance that it is not generally possible to distinguish the contribution of individual emission sources or groups of sources.

FUNDAMENTAL PRINCIPLES

Article 2

The Contracting Parties, taking due account of the facts and problems involved, are determined to protect man and his environment against air pollution and shall endeavour to limit and, as far as possible, gradually reduce and prevent air pollution including long-range transboundary air pollution.

Article 3

The Contracting Parties, within the framework of the present Convention, shall by means of exchanges of information, consultation, research and monitoring, develop without undue delay policies and strategies which shall serve as a means of combating the discharge of air pollutants, taking into account efforts already made at national and international levels.

Article 4

The Contracting Parties shall exchange information on and review their policies, scientific activities and technical measures aimed at combating, as far as possible, the discharge of air pollutants which may have adverse effects, thereby contributing to the reduction of air pollution including long-range transboundary air pollution.

Article 5

Consultations shall be held, upon request, at an early stage between, on the one hand, Contracting Parties which are actually affected by or exposed to a significant risk of long-range transboundary air pollution and, on the other hand, Contracting Parties within which and subject to whose jurisdiction a significant contribution to long-range transboundary air pollution originates, or could originate, in connexion with activities carried on or contemplated therein.

AIR QUALITY MANAGEMENT

Article 6

Taking into account articles 2 to 5, the ongoing research, exchange of information and monitoring and the results thereof, the cost and effectiveness of local and other remedies and, in order to combat air pollution, in particular that originating from new or rebuilt installations, each Contracting Party undertakes to develop the best policies and strategies including air quality management systems and, as part of them, control measures compatible with balanced development, in particular by using the best available technology which is economically feasible and low- and non-waste technology.

RESEARCH AND DEVELOPMENT

Article 7

The Contracting Parties, as appropriate to their needs, shall initiate and co-operate in the conduct of research into and/or development of:

(a) existing and proposed technologies for reducing emissions of sulphur compounds and other major air pollutants, including technical and economic feasibility, and environmental consequences;

(b) instrumentation and other techniques for monitoring and measuring emission rates and ambient concentrations of air pollutants;

(c) improved models for a better understanding of the transmission of long-range transboundary air pollutants;

(d) the effects of sulphur compounds and other major air pollutants on human health and the environment, including agriculture, forestry, materials, aquatic and other natural ecosystems and visibility, with a view to establishing a scientific basis for dose/effect relationships designed to protect the environment;

(e) the economic, social and environmental assessment of alternative measures for attaining environmental objectives including the reduction of long-range transboundary air pollution;

(f) education and training programmes related to the environmental aspects of pollution by sulphur compounds and other major air pollutants.

EXCHANGE OF INFORMATION

Article 8

The Contracting Parties, within the framework of the Executive Body referred to in article 10 and bilaterally, shall, in their common interests, exchange available information on:

(a) data on emissions at periods of time to be agreed upon, of agreed air pollutants, starting with sulphur dioxide, coming from grid-units of agreed size; or on the fluxes of agreed air pollutants, starting with sulphur dioxide, across national borders, at distances and at periods of time to be agreed upon;

(b) major changes in national policies and in general industrial development, and their potential impact, which would be likely to cause significant changes in long-range transboundary air pollution;

(c) control technologies for reducing air pollution relevant to long-range transboundary air pollution;

(d) the projected cost of the emission control of sulphur compounds and other major air pollutants on a national scale;

(e) meteorological and physico-chemical data relating to the processes during transmission;

(f) physico-chemical and biological data relating to the effects of long-range transboundary air pollution and the extent of the damage[1] which these data indicate can be attributed to long-range transboundary air pollution;

(g) national, subregional and regional policies and strategies for the control of sulphur compounds and other major air pollutants.

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[1] The present Convention does not contain a rule on State liability as to damage.

IMPLEMENTATION AND FURTHER DEVELOPMENT OF THE CO-OPERATIVE PROGRAMME FOR THE MONITORING AND EVALUATION OF THE LONG-RANGE TRANSMISSION OF AIR POLLUTANTS IN EUROPE

Article 9

The Contracting Parties stress the need for the implementation of the existing "Co-operative programme for the monitoring and evaluation of the long-range transmission of air pollutants in Europe" (hereinafter referred to as EMEP) and, with regard to the further development of this programme, agree to emphasize:

(a) the desirability of Contracting Parties joining in and fully implementing EMEP which, as a first step, is based on the monitoring of sulphur dioxide and related substances;

(b) the need to use comparable or standardized procedures for monitoring whenever possible;

(c) the desirability of basing the monitoring programme on the framework of both national and international programmes. The establishment of monitoring stations and the collection of data shall be carried out under the national jurisdiction of the country in which the monitoring stations are located;

(d) the desirability of establishing a framework for a co-operative environmental monitoring programme, based on and taking into account present and future national, subregional, regional and other international programmes;

(e) the need to exchange data on emissions at periods of time to be agreed upon, of agreed air pollutants, starting with sulphur dioxide, coming from grid-units of agreed size; or on the fluxes of agreed air pollutants, starting with sulphur dioxide, across national borders, at distances and at periods of time to be agreed upon. The method, including the model, used to determine the fluxes, as well as the method, including the model, used to determine the transmission of air pollutants based on the emissions per grid-unit, shall be made available and periodically reviewed, in order to improve the methods and the models;

(f) their willingness to continue the exchange and periodic updating of national data on total emissions of agreed air pollutants, starting with sulphur dioxide;

(g) the need to provide meteorological and physico-chemical data relating to processes during transmission;

(h) the need to monitor chemical components in other media such as water, soil and vegetation, as well as a similar monitoring programme to record effects on health and environment;

(i) the desirability of extending the national EMEP networks to make them operational for control and surveillance purposes.

EXECUTIVE BODY

Article 10

1. The representatives of the Contracting Parties shall, within the framework of the Senior Advisers to ECE Governments on Environmental Problems, constitute the Executive Body of the present Convention, and shall meet at least annually in that capacity.

2. The Executive Body shall:

(a) review the implementation of the present Convention;

(b) establish, as appropriate, working groups to consider matters related to the implementation and development of the present Convention and to this end to prepare appropriate studies and other documentation and to submit recommendations to be considered by the Executive Body;

(c) fulfil such other functions as may be appropriate under the provisions of the present Convention.

3. The Executive Body shall utilize the Steering Body for the EMEP to play an integral part in the operation of the present Convention, in particular with regard to data collection and scientific co-operation.

4. The Executive Body, in discharging its functions, shall, when it deems appropriate, also make use of information from other relevant international organizations.

SECRETARIAT

Article 11

The Executive Secretary of the Economic Commission for Europe shall carry out, for the Executive Body, the following secretariat functions:

(a) to convene and prepare the meetings of the Executive Body;

(b) to transmit to the Contracting Parties reports and other information received in accordance with the provisions of the present Convention;

(c) to discharge the functions assigned by the Executive Body.

AMENDMENTS TO THE CONVENTION

Article 12

1. Any Contracting Party may propose amendments to the present Convention.

2. The text of proposed amendments shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall communicate them to all Contracting Parties. The Executive Body shall discuss proposed amendments at its next annual meeting provided that such proposals have been circulated by the Executive Secretary of the Economic Commission for Europe to the Contracting Parties at least ninety days in advance.

3. An amendment to the present Convention shall be adopted by consensus of the representatives of the Contracting Parties, and shall enter into force for the Contracting Parties which have accepted it on the ninetieth day after the date on which two-thirds of the Contracting Parties have deposited their instruments of acceptance with the depositary. Thereafter, the amendment shall enter into force for any other Contracting Party on the ninetieth day after the date on which that Contracting Party deposits its instrument of acceptance of the amendment.

SETTLEMENT OF DISPUTES

Article 13

If a dispute arises between two or more Contracting Parties to the present Convention as to the interpretation or application of the Convention, they shall seek a solution by negotiation or by any other method of dispute settlement acceptable to the parties to the dispute.

SIGNATURE

Article 14

1. The present Convention shall be open for signature at the United Nations Office at Geneva from 13 to 16 November 1979 on the occasion of the High-level Meeting within the framework of the Economic Commission for Europe on the Protection of the Environment, by the member States of the Economic Commission for Europe as well as States having consultative status with the Economic Commission for Europe, pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations, constituted by sovereign States members of the Economic Commission for Europe, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by the present Convention.

2. In matters within their competence, such regional economic integration organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which the present Convention attributes to their member States. In such cases, the member States of these organizations shall not be entitled to exercise such rights individually.

RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

Article 15

1. The present Convention shall be subject to ratification, acceptance or approval.

2. The present Convention shall be open for accession as from 17 November 1979 by the States and organizations referred to in article 14, paragraph 1.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations, who will perform the functions of the depositary.

ENTRY INTO FORCE

Article 16

1. The present Convention shall enter into force on the ninetieth day after the date of deposit of the twenty-fourth instrument of ratification, acceptance, approval or accession.

2. For each Contracting Party which ratifies, accepts or approves the present Convention or accedes thereto after the deposit of the twenty-fourth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such Contracting Party of its instrument of ratification, acceptance, approval or accession.

WITHDRAWAL

Article 17

At any time after five years from the date on which the present Convention has come into force with respect to a Contracting Party, that Contracting Party may withdraw from the Convention by giving written notification to the depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the depositary.

AUTHENTIC TEXTS

Article 18

The original of the present Convention, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed the present Convention.

DONE at Geneva, this thirteenth day of November, one thousand nine hundred and seventy-nine.

C. RESOLUTION ON LONG-RANGE TRANSBOUNDARY AIR POLLUTION ADOPTED BY THE SIGNATORIES TO THE CONVENTION ON 13 NOVEMBER 1979

The Signatories to the Convention on Long-range Transboundary Air Pollution of 13 November,

1. *Decide* that they shall, within the framework of the Economic Commission for Europe and the Senior Advisers to ECE Governments on Environmental Problems, initiate, as soon as possible and on an interim basis, the provisional implementation of the Convention on Long-range Transboundary Air Pollution; they undertake to carry out the obligations arising from the Convention to the maximum extent possible pending its entry into force;

2. *Agree* that the necessary authority should be given to the Economic Commission for Europe and to its Executive Secretary to provide for a sufficient sencretariat and, in the framework of the existing budgetary struture, for the appropriate financial means;

3. *Further decide* to develop without delay further co-operation in problem areas within the scope of the Convention. In particular they will seek to bring closer together their policies and strategies for combating air pollution including long-range transboundary air pollution;

4. *Declare* that such strategies and policies shall be aimed at limiting and as far as possible gradually reducing and preventing air pollution, including long-range transboundary air pollution. These shall be implemented progressively and the designated competent body shall review regularly the progress achieved at national level. To this end the signatories will attach highest priority to the completion of a document setting out the strategies and policies of each of the signatories for the abatement of air pollution caused by sulphur compounds.

D. DECLARATION ON LOW- AND NON-WASTE TECHNOLOGY AND RE-UTILIZATION AND RECYCLING OF WASTES ADOPTED ON 13 NOVEMBER 1979

The States participating in the High-level Meeting on the Protection of the Environment

Determined to promote relations and co-operation in the field of environmental protection,

Conscious of the significance of the activities of the United Nations Economic Commission for Europe in strengthening such relations and co-operation,

Recalling the contribution of ECE to the multilateral implementation of the pertinent provisions of the Final Act of the Conference on Security and Co-operation in Europe,

Cognizant of the importance that, in accordance with the Chapter on Environment of the Final Act, economic development and technological progress must be compatible with the protection of the environment and that damage to the environment is best avoided by preventive measures,

Bearing in mind the need for development of low- and non-waste technology and re-utilization and recycling of wastes,

Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, particularly with regard to the need to achieve a more rational management of resources and thus to improve the environment,

Convinced that raw materials and energy should be used in a rational manner,

Taking into account the results of the ECE Seminar on Non-Waste Technology and Production (Paris, 1976) which, *inter alia,* defined non-waste technology as "the practical application of knowledge, methods and means, so as—within the needs of man—to provide the most rational use of natural resources and energy, and to protect the environment",

Mindful that low- and non-waste technology and re-utilization and recycling of wastes would help to prevent environmental damage, as such technology could reduce or eliminate waste products which otherwise pollute the environment,

Convinced that low- and non-waste technology and re-utilization and recycling of wastes which provides for a more rational use of energy and raw materials would preserve precious non-renewable resources and prevent over-utilization of renewable resources,

Affirming the importance of considering the entire life-cycle of a product, from extraction of raw materials to consumption and final disposal or recycling,

Recognizing the need that decisions on moving towards low- and non-waste technology should take into account the implications of environmental, economic and social factors associated with such moves,

Noting that ECE activities are part of a broader programme for development of environmentally sound and appropriate technologies, under the auspices of UNEP in co-operation with other international organizations, and would be of interest and value to other regions of the world,

1. *Declare their intent* to protect man and his environment and to use resources rationally by promoting low- and non-waste technology and re-utilization and recycling of wastes;

2. *State* that the overriding objectives of low- and non-waste technology and re-utilization and recycling of wastes are environmental protection and rational use of resources;

3. *Consider* that ways and means for the application of such technologies could include, *inter alia*:

(a) the promotion of low- and non-waste technology and re-utilization and recycling of wastes through:

- (i) reduction of the generation of wastes and the emission of pollutants in the various production and consumption cycles by:
  - (a) using improved industrial processes when setting up new, or transforming existing units of production;
  - (b) designing products particularly to increase durability and facilitate repair and re-utilization, whenever appropriate;
- (ii) recovery, re-use and valorization of wastes, *inter alia,* by:
  - (a) recovering valuable substances and materials from industrial effluents and combustion gases;
  - (b) making better use of the energy content of wastes and residuals;
- (iii) re-utilization of larger quantities of wastes as "secondary" raw materials in other production processes;
- (iv) rational use of raw materials in the production process and throughout the whole life-cycle of products; and substitution of readily available raw materials for those becoming depleted;
- (v) rational use of energy resources in energy producing and energy utilizing processes and, whenever practicable, re-use of waste energy;

(b) evaluation of the industrial application of low- and non-waste technology to optimize the use of raw materials and energy, including possibilities for recovery, recycling and economic efficiency, while taking into account environmental and social consequences;

(c) national and international action to support the application of low- and non-waste technology by, *inter alia*, research and development, education, socio-economic incentives, oxchange of information, and transfer of technology;

4. *Recommend* the following national action:

(a) promotion of research and development activities with regard to, *inter alia*:

- development of methods for the assessment of economic, social and environmental impacts of low- and non-waste technology and re-utilization and recycling of wastes applicable in countries with different economic and social systems;
- development of low- and non-waste technology and re-utilization and recycling of wastes in, *inter alia*, the following sectors: pulp and paper, iron and steel, chemicals, mining, non-ferrous metals, metal plating and surface treatment of metals, fertilizers and food processing (this list of industrial sectors is neither exhaustive nor restrictive);
- the study of those industrial sectors that are generating potentially toxic wastes;
- methods which would be most relevant with regard to energy savings;

(b) incentives for low- and non-waste technology and re-utilization and recycling of wastes through, *inter alia*:

- study of ways and means to make public opinion more aware of the concept of low- and non-waste technology by disseminating information, and by promoting attitudes in favour of rational use of natural resources;
- listing of incentives for, and constraints to, the development of low- and non-waste technology and re-utilization and recycling of wastes;
- collection and analysis of information on practical experiences in the use of incentives and in overcoming obstacles;
- investigation of the social and economic impact of various incentives and constraints with the aid of economic models;
- initiation of studies on, and experiments with, different types of incentives based on legislation, regulations and standards, and economic measures;

(c) inter-industry technology transfer and industrial interaction:

- promotion of transfer of technology between different industrial sectors;
- industrial interaction in order to optimize production processes and to assist recycling and re-utilization of wastes;
- promotion of the utilization of wastes as secondary materials in industrial processes;

(d) inclusion of the concept of low- and non-waste technology and re-utilization and recycling of wastes in educational programmes at all levells, including in particular those concerned with teaching:

- explanation of the role of low- and non-waste technology in resource conservation and environmental protection;
- emphasis, in technical and industrial education, on programmes for low- and non-waste production processes and products designed to reduce waste and render recycling effective;

5. *Recommend* the following international co-operative activities within the framework of ECE:

(a) support for research and development activities related to:

- international co-operative pilot projects and other joint research projects;
- further development of on-going activities related to the development of methodologies for comparison and evaluation of various technologies;
- elaboration of a unified classification of wastes (e.g. paper, plastics, textiles);

(b) exchange of scientific and technical information and co-operation at the international level through:

- further development of the current compilation of a compendium on low- and non-waste technology with a view to setting up an international data bank for information on low- and non-waste technology and re-utilization and recycling of wastes while fully respecting the need to protect proprietary information;
- arrangement of international seminars on various aspects of low- and non-waste technology and re-utilization and recycling of wastes, including economic and ecological aspects;
- encouragement to transfer of technology by means of conventional economic measures, through existing commercial channels, taking into account the interests of ECE countries that are developing from an economic point of view, making use of the information contained in the data bank, which might be appropriate;
- exchange of information on national experience concerning incentives for the promotion of low- and non-waste technology and re-utilization and recycling of wastes;

(c) organization of activities concerning international waste exchanges:

- collection and analysis of information on the economic, technical, environmental and social impact of existing waste exchanges;
- investigation of possibilities to expand the network of subregional waste exchanges and co-operation between national and subregional exchanges; these activities should be complementary to initiatives already taken, *inter alia,* by industry or associations of industry or commerce;

(d) organization of international post-graduate courses on low- and non-waste technology and re-utilization and recycling of wastes, which should be as far as possible, self-supporting or financed by existing mechanisms;

6. *Recommend,* within the framework of ECE, to set up a body on low- and non-waste technology and re-utilization and recycling of wastes to be entrusted with the development of organizational, scientific and technical questions related to low- and non-waste technology and re-utilization and recycling of wastes. This body should be a working party of national experts under the authority of the Senior Advisers to ECE Governments on Environmental Problems and should undertake, *inter alia,* the following tasks, taking into account activities of other Principal Subsidiary Bodies of ECE and of other international organizations to avoid unnecessary duplication of work:

(a) to exchange information on the items mentioned under 4 and 5 above;

(b) to consider the publication of a scientific and technical review for the promotion and development of low- and non-waste technology and re-utilization and recycling of wastes; and

(c) to make recommendations to the Senior Advisers to ECE Governments on Environmental Problems on activities relating to low- and non-waste technology and re-utilization and recycling of wastes, always recognizing the need to take full account of the implications of environmental, economic and social factors.

Geneva, 13 November 1979

STATUS OF THE CONVENTION ON LONG-RANGE TRANSBOUNDARY AIR POLLUTION AND ITS RELATED PROTOCOLS (AS OF 15 MAY 1988)

	Convention (a)		EMEP Protocol (b)		SO_2 Protocol (c)	
	Signature	**Ratification***	**Signature**	**Ratification***	**Signature**	**Ratification***
Austria	13.11.1979	16.12.1982 (R)		4. 6.1987 (Ac)	9.7.1985	4. 6.1987 (R)
Belgium	13.11.1979	15. 7.1982 (R)	25. 2.1985	5. 8.1987 (R)	9.7.1985	
Bulgaria	14.11.1979	9. 6.1981 (R)	4. 4.1985	26. 9.1986 (Ap)	9.7.1985	26. 9.1986 (Ap)
Byelorussian SSR	14.11.1979	13. 6.1980 (R)	28. 9.1984	4.10.1985 (At)	9.7.1985	10. 9.1986 (At)
Canada	13.11.1979	15.12.1981 (R)	3.10.1984	4.12.1985 (R)	9.7.1985	4.12.1985 (R)
Czechoslovakia	13.11.1979	23.12.1983 (R)		26.11.1986 (Ac)	9.7.1985	26.11.1986 (Ap)
Denmark	14.11.1979	18. 6.1982 (R)	28. 9.1984	29. 4.1986 (R)	9.7.1985	29. 4.1986 (R)
Finland	13.11.1979	15. 4.1981 (R)	7.12.1984	24. 6.1986 (R)	9.7.1985	24. 6.1986 (R)
France	13.11.1979	3.11.1981 (Ap)	22. 2.1985	30.10.1987 (R)	9.7.1985	13. 3.1986 (Ap)
German Democratic Republic	13.11.1979	7. 6.1982 (R)		17.12.1986 (Ac) (2)	9.7.1985	
Germany, Federal Republic of	13.11.1979	15. 7.1982 (R) (2)	26. 2.1985	7.10.1986 (R) (2)	9.7.1985	3. 3.1987 (R) (2)
Greece	14.11.1979	30. 8.1983 (R)				
Holy See	14.11.1979					
Hungary	13.11.1979	22. 9.1980 (R)	27. 3.1985	8. 5.1985 (Ap)	9.7.1985	11. 9.1986 (R)
Iceland	13.11.1979	5. 5.1983 (R)				
Ireland	13.11.1979	15. 7.1982 (R)	4. 4.1985	26. 6.1987 (R)		
Italy	14.11.1979	15. 7.1982 (R)	28. 9.1984		9.7.1985	
Liechtenstein	14.11.1979	22.11.1983 (R)		1. 5.1985 (Ac)	9.7.1985	13. 2.1986 (R)
Luxembourg	13.11.1979	15. 7.1982 (R)	21.11.1984	24. 8.1987 (R)	9.7.1985	24. 8.1987 (R)
Netherlands	13.11.1979	15. 7.1982 (At) (3)	28. 9.1984	22.10.1985 (At) (3)	9.7.1985	30. 4.1986 (At) (3)
Norway	13.11.1979	13. 2.1981 (R)	28. 9.1984	12. 3.1985 (At)	9.7.1985	4.11.1986 (R)
Poland	13.11.1979	19. 7.1985 (R) (2)				
Portugal	14.11.1979	29. 9.1980 (R)				
Romania	14.11.1979 (1)					
San Marino	14.11.1979					
Spain	14.11.1979	15. 6.1982 (R)		11. 8.1987 (Ac)		
Sweden	13.11.1979	12. 2.1981 (R)	28. 9.1984	12. 8.1985 (R)	9.7.1985	31. 3.1986 (R)
Switzerland	13.11.1979	6. 5.1983 (R)	3.10.1984	26. 7.1985 (R)	9.7.1985	21. 9.1987 (R)
Turkey	13.11.1979	18. 4.1983 (R)	3.10.1984	20.12.1985 (R)		
Ukrainian SSR	14.11.1979	5. 6.1980 (R)	28. 9.1984	30. 8.1985 (At)	9.7.1985	2.10.1986 (At)
Union of Soviet Socialist Republics	13.11.1979	22. 5.1980 (R)	28. 9.1984	21. 8.1985 (At)	9.7.1985	10. 9.1986 (At)
United Kingdom of Great Britain and Northern Ireland	13.11.1979	15. 7.1982 (R) (4)	20.11.1984	12. 8.1985 (R)		
United States of America	13.11.1979	30.11.1981 (At)	28. 9.1984	29.10.1984 (At)		
Yugoslavia	13.11.1979	18. 3.1987 (R)		28.10.1987 (Ac)		
European Economic Community	14.11.1979	15. 7.1982 (Ap)	28. 9.1984	17. 7.1986 (Ap)		
Total:	35	32	22	27	21	18

* R = Ratification Ac = Accession Ap = Approval At = Acceptance

(1) With a declaration upon signature
(2) With a declaration upon ratification
(3) For the Kingdom in Europe
(4) Including the Bailiwick of Jersey, the Bailiwick of Guernsey, the Isle of Man, Gibraltar, the United Kingdom Sovereign Base Areas of Akrotiri and Dhekhelia in the Island of Cyprus

(a) = Convention on Long-range Transboundary Air Pollution, adopted on 13.11.1979, entry into force on 16.3.1983
(b) = Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Long-term Financing of the Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), adopted on 28.9.1984, entry into force on 28.1.1988
(c) = Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent, adopted on 8.7.1985, entry into force on 2.9.1987

Annex VII

CONCLUDING DOCUMENT[*] OF THE VIENNA MEETING 1986 OF REPRESENTATIVES OF THE PARTICIPATING STATES OF THE CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE, HELD ON THE BASIS OF THE PROVISIONS OF THE FINAL ACT RELATING TO THE FOLLOW-UP TO THE CONFERENCE

* * *

ENVIRONMENT

24. Recognizing the need for preventive action, the participating States will strengthen their co-operation and intensify efforts aimed at protecting and improving the environment, bearing in mind the need to maintain and restore the ecological balance in air, water and soil. They will do this by, *inter alia,* developing their internal legislation and international commitments, and by applying the best available means, taking into account levels of development as well as economic and technical constraints. They underline the importance of the Regional Strategy for Environmental Protection and Rational Use of Natural Resources in ECE Member Countries Covering the Period up to the Year 2000 and beyond. They welcome, and will take due account of, the report of the World Commission on Environment and Development and the Environmental Perspective to the year 2000 and beyond, as well as the work already undertaken within the competent international fora, in particular within the framework of the 1979 Convention on Long-Range Transboundary Air Pollution (hereafter called "the Convention").

25. The participating States are convinced of the need for timely and effective reductions of sulphur emissions or their transboundary fluxes. They call upon contracting parties and signatories to the Convention to become parties to the Protocol on the reduction of sulphur emissions of their transboundary fluxes by at least 30 per cent. They recommend that further steps to reduce sulphur emissions, in line with the objectives of the Protocol, be taken by those States which are not parties to the Protocol, and that those States where this goal is already accomplished continue to control their emissions. Recalling that the said Protocol provides for reductions of sulphur emissions at the latest by 1993, they will work within the framework of the convention for the elaboration at an early date of an arrangement for further reductions of sulphur emissions beyond the level established by the Protocol.

26. The participating States consider that control and reduction of nitrogen oxide emissions, or their transboundary fluxes, deserve high priority in their pollution abatement programmes. They welcome the elaboration and adoption of a protocol on control of nitrogen oxide emissions.

27. They recognize the need to develop, within the framework of the Convention, arrangements to reduce emissions of other relevant air pollutants such as hydrocarbons and those producing photochemical oxidants. They will strengthen their co-operation accordingly, including by collecting and processing the necessary information.

28. The praticipating States agree to strengthen and develop the Cooperative Programme for the Monitoring and Evaluation of the Long-Range Transmission of Air Pollutants in Europe (EMEP), *inter alia* through extending and improving the system of monitoring stations, providing EMEP with the necessary information regarding emissions of pollutants, furthering developing comparable methods of measurement, and expanding coverage to include other relevant air pollutants, in particular nitrogen oxides, hydrocarbons and photochemical oxidants. They also recommend that those countries which have not yet done so should become parties to the Protocol on the Long-Term Financing of EMEP.

29. The participating States will make every effort to become parties, as soon as possible, to the Vienna Convention for the Protection of the Ozone Layer and to the Montreal Protocol on Substances that Deplete the Ozone Layer. Further, they will foster national action and international co-operation on the control and reduction of the emission of ozone-depleting substances.

30. The participating States agree that further national and international research efforts should be made regarding the global warming phenomenon, and the role played therein by emissions of carbon dioxide and trace gases in order to provide a scientific basis for mitigative action.

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[*] Adopted on 15 January 1989 by the Meeting (4 November 1986-17 January 1989).

31. In order to protect and improve freshwater resources and to reduce significantly the pollution of seas and coastal areas, transboundary watercourses and international lakes from all sources of pollution, the participating States will develop and intensify national efforts as well as bilateral and multilateral co-operation. They recommend the elaboration of a framework convention or specific conventions to improve the protection of transboundary watercourses and international lakes. They will reduce significantly discharges of toxic, persistent and potentially hazardous substances. Furthermore, they will devote special attention to the development of appropriate alternatives to sea disposal in order to decrease progressively and substantially the dumping of harmful wastes and the incineration of noxious liquid wastes at sea, with a view to the early termination of such methods.

32. The participating States recognize the need to improve international co-operation on the transboundary movement of hazardous wastes. Taking into account the valuable work done in other international fora, they will encourage the elaboration of international agreements, including a global convention on the control of transboundary movements of hazardous wastes.

33. The participating States will seek closer co-operation and greater exchange of information on the problems associated with potentially hazardous chemicals, including assessment of the risks to health and the environment. They will explore possibilities for closer harmonization of their legislation and regulations on the handling of these chemicals.

34. The participating States will strengthen international co-operation on natural resources and flora and fauna. They will promote early accession to, and effective implementation of, relevant agreements. They will also develop further effective measures to combat soil degradation and to protect flora, fauna and their habitats on the basis of the Declaration on this subject adopted by the ECE. They will intensify their exchanges of views and experience on ways and means of achieving a more rational use of natural resources.

35. The participating States acknowledge the importance of the contribution of persons and organizations dedicated to the protection and improvement of the environment, and will allow them to express their concerns. They will promote greater public awareness and understanding of environmental issues and will co-operate in the field of environmental education, *inter alia* through exchanges of experience and results of research studies, development of educational programmes and ecological training.

36. The participating States will co-operate bilaterally and multilaterally with a view to improving and co-ordinating their arrangements for prevention, early warning, exchange of information and mutual assistance in cases of industrial accidents likely to cause transboundary damage to the environment. They will also initiate the examination of key elements related to the transboundary character of industrial accidents, such as clean up, restoration and liability.

37. The participating States agree to convene a Meeting on the protection of the environment. This Meeting will take place in Sofia from 16 October to 3 November 1989. The aim of the meeting is to elaborate recommendations on principles and guidelines for further measures and co-operation in new and important areas of environmental protection. The agenda, timetable and other organizational modalities are set out in Annex VII. The next Follow-up meeting, to be held in Helsinki, commencing on 24 March 1992 will assess the results achieved at the meeting.

NOTE ON SOURCES AND SELECTED BIBLIOGRAPHY

As explained in the prefatory part, the study is based almost entirely on ECE documentation supplemented by direct observation of relevant ECE meetings and consultation with members of the secretariat. To the extent that the author referred to other sources, such as books and articles, these are indicated in the notes and are easily located. Generally, he deliberately preferred to form his own judgements unaffected by those of others. To the best of the author's knowledge no other detailed study of the 1979 High-level Meeting has so far been undertaken.

As far as the ECE documentation is concerned, all documentary sources are indicated in the Notes and References. For a better over-all orientation the reader is referred to annex III, in which the main text of document ECE/ENV/29 is reproduced. The document lists the principal documents of the Meeting's preparatory phase as part of a chronological description of that phase. After the setting up of the Executive Body of the Convention its reports have been issued under the symbol ECE/EB.AIR/.... A useful source of periodic information on the activities of the ECE, including the entire field of environment, are the annual reports of the ECE to the Economic and Social Council. These now bear the dual symbol E/year/... and E/ECE/.... The ECE secretariat also publishes from time to time a factual account of the Commission's work. The last such publication was entitled "ECE 1947-1987" (E/ECE/1132, New York, 1987 (United Nations publication, Sales No. E.87.II.E.17)). Readers who may wish to consult ECE documents can do so in the Library of the United Nations Office at Geneva (UNOG), or by contacting the Distribution and Sales Section of UNOG's Publishing Service which can supply a microfiche or a copy of the document required, at a cost-based charge.

As far as books and articles are concerned, the reader will find hereunder a brief selected bibliography.

1. General background

Our Common Future—The World Commission on Environment and Development. Oxford University Press, 1987.

2. Conference diplomacy

The sources listed in the article by Professor V. Rittberger (Tübingen) entitled "Global Conference Diplomacy and International Policy-Making: The Case of UN-Sponsored World Conferences" (written as part of a UNITAR research programme on global conference diplomacy, *op. cit.*) are reproduced for ease of reference.

Baldwin, S. E. (1907). "The International Congresses and Conferences of the Last Century as Forces Working Toward the Solidarity of the World", *American Journal of International Law* 1, 565-578.

Graham, N. and Haggard, S. (1979). "Diplomacy in Global Conferences", *UNITAR News* 11, 14-21.

Graham, N. and Haggard, S. (1979). "Theoretical Implications of Diplomacy in Global Conferences: A Comparative Perspective", paper presented for the Annual Convention of the International Studies Association, 21-24 March 1979, Toronto.

Graham, N. and Haggard, S. (1979). "The Impact of *Ad Hoc* Global Conferences: Evaluating Effects at the National and International Level", paper prepared for the Annual Meeting of the American Political Science Association, 30 August to 3 September 1979, Washington, D.C.

Iklé, F. C. (1967). *How Nations Negotiate*. New York: Preager.

Kaufmann, J. (1970). *Conference Diplomacy*. Leyden: Sijthoff; and Dobbs Ferry, N.Y.: Oceana.

Kaufmann, J. (1980). *United Nations Decision Making*. Alphen aan den Rijn: Sijthoff & Noordhoff.

Krasner, S. (ed.) (1982). *International Regimes. International Organization* 36, 2 (special issue).

Lord Hankey (1946). *Diplomacy by Conference*. New York: Putnam's.

Midgaard, K. and Underdal, A. (1977). "Multiparty Conferences", pp. 329-345 *in* Druckman, D. (ed.), *Negotiations*. Beverly Hills/London: Sage.

Rittberger, V. (1980). "Globale Konferenzdiplomatie im Dienste der Entwicklung?", *Österreichische Zeitschrift für Aussenpolitik* 20, 4-23.

Rittberger, V. (1982). "International Policymaking for Development Through the United Nations". pp. 213-256 in Rittberger, V. (ed.), *Science and Technology in a Changing International Order*. Boulder: Westview Press.

Rothstein, R. L. (1979). *Global Bargaining*. Princeton: Princeton University Press.

Stokes, B. (1981). *Helping Ourselves: Local Solutions to Global Problems*. New York/London: Norton.

Weiss, Th. G. and Jordan, R. S. (1976). *The World Food Conference and Global Problem Solving*. New York: Praeger.

Winham, G. R. (1977). "Complexity in International Negotiation", pp. 347-366 *in* Druckman, D. (ed.), *Negotiations*. Beverly Hills/London: Sage.

Wolf, K. D. (1981). *Die Dritte Seerechtskonferenz der Vereinten Nationen*. Baden-Baden: Nomos.

Zellentin, G. (1977). "Zur Rolle der Konferenzdiplomatie in den Ost-West-Beziehungen", pp. 13-26 *in* Delbrück, J., Ropers, N. and Zellentin, G. (eds.), Grünbuch zu den Folgewirkungen der KSZE. Köln: Verlag Wissenschaft und Politik.

The author has also found useful B. M. Ashavsky's book (in Russian) on "Intergovernmental Conferences. International and legal questions". "International Relations" Publishers, Moscow 1980.

3. Environmental diplomacy

Benedick, Richard E. Environment in the Foreign Policy Agenda. *Department of State Bulletin* (Washington, D. C.) June 1986, pp. 55-58.

Caroll, John E. (ed.). International Environmental Diplomacy. The Management and Resolution of Transfrontier Environmental Problems. Cambridge University Press. Cambridge (UK) and New York, 1988.

Kokin, Mikhail. Cooperation of States in Environmental Protection. International Affairs (Moscow), May 1981, pp. 125-138.

Sand, Peter H. Regional Approaches to Transboundary Air Pollution *In* An Energy Agenda for the 1990s. Proceedings of US National Academy of Engineering Symposium held in Irvine/California, 11-12 May 1988, National Academy.

4. The UN Convention on Long-range Transboundary Air Pollution (1979)*

Abdelhady, A. M. L'action juridique internationale contre la pollution atmosphérique. Thèse de doctorat en droit. Université de Lyon III (1981), 684 pp.

Abdelhady, A. M. The Convention on Long-range Transboundary Air Pollution: the Problem of Acid Rain (in Arabic). *Revue Egyptienne de Droit International* vol. 40 (1984). pp. 119-132.

Bishop, A. S. High-level Meeting within the Framework of the ECE on the Protection of the Environment. *Environmental Conservation* vol. 7 (1980), pp. 165-166.

Demidecki, M. R. Implementation of the Convention on Long-range Transboundary Air Pollution. *Environmental Policy and Law* vol. 13 (1984), pp. 48-51.

Dovland, H. Monitoring European Transboundary Air Pollution. *Environment* (Washington, D.C.) vol. 29 No. 10 (1987). pp. 10-15, 27-28.

Gündling, L. Völkerrechtliche und europarechtliche Aspekte der Luftreinhaltung. *Umwelt- und Planungsrecht* vol. 5 (1985). pp. 403-411.

Gündling, L. Multilateral Co-operation of States under the ECE Convention on Long-range Transboundary Air Pollution. *In Transboundary Air Pollution* (C. Flinterman, B. Kwiatkowska & J. G. Lammers (eds.), Dordrecht, 1986) pp. 19-31.

Heywood, T. A. Environmental Modification: Convention on Long-range Transboundary Air Pollution. *Harvard International Law Journal* vol. 21 (1980). pp. 536-540.

Israel, Yu. A. *et al.* Monitoring of the Transboundary Movement of Air-polluting Substances, Leningrad, Gidrometeoizdat 1987 (in Russian)

Kiss, A. C. La Convention sur la pollution atmosphérique transfrontière à longue distance. *Revue Juridique de l'Environnement* vol. 5 (1981). pp. 30-35.

Kiss, A. C. La convenzione sull'inquinamento atmosferico transfrontiera. *L'Ambiente e il Diritto* vol. 4 (1981). pp. 316-322.

Kiss, A. C. Du nouveau dans l'air: des "pluies acides" à la couche d'ozone. *Annuaire Français de Droit International* vol. 31 (1985). pp. 812-822.

---

* References kindly supplied by Mr. P. H. Sand of the ECE secretariat.

Lang, W. Luft und Ozon: Schutzobjekte des Völkerrechts, *Zeitschrift für Ausländisches Öffentliches Recht und Völkerrecht* vol. 46 (1986). pp. 261-285.

Lang, W. Environmental Protection: The Challenge for International Law. *Journal of World Trade Law* vol. 20 (1986). pp. 489-496.

McCormick, J. Acid Earth: The Global Threat of Acid Pollution. (London, 1985). 190 pp.

Mott, R. An Acid Rain Summons from Europe. *Environmental Forum* vol. 5 (1988). pp. 32-33.

Piette, J. La protection de la santé publique et la réglementation nationale et internationale de la pollution par les pluies acides. *Revue québecoise de droit international* vol. 2 (1985). pp. 139-154.

Prittwitz, V. Europäische Zusammenarbeit in der Luftreinhaltung? *Zeitschrift für Umweltpolitik* vol. 6 (1983). pp. 117-132.

Prittwitz, V. Umweltaussenpolitik: Grenzüberschreitende Luftverschmutzung in Europa (Frankfurt, 1984). 211 pp.

Rosencranz, A. The ECE Convention of 1979 on Long-range Transboundary Air Pollution. *American Journal of International Law* vol. 75 (1981). pp. 975-982. Reprinted in *Zeitschrift für Umweltpolitik* vol. 4 (1981). pp. 511-520.

Sand, P. H. Air Pollution in Europe: International Policy Responses. *Environment* vol. 29 No. 10 (1987). pp. 16-20, 28-29.

Schröder, M. Waldschäden als Problem des internationalen und des europäischen Rechts. *Deutsches Verwaltungsblatt* vol. 23 (1986). pp. 1173-1180.

Sion, I. G. Regional Approach to Environmental Protection and the UN/ECE Convention on Long-range Transboundary Air Pollution. *Revue Roumaine d'Etudes Internationales* vol. 15 (1981). pp. 387-400.

Tollan, A. The Convention on Long-range Transboundary Air Pollution. *Journal of World Trade Law* vol. 19 (1985). pp. 615-621.

Vygen, H. Urging for a Firm Clean-Air Policy Across National Borders. *Environmental Policy and Law* vol. 11 (1983). pp. 34-36.

Vygen, H. Ost-West-Kooperation auf dem Gebiet der Luftreinhaltung. *Umwelt- und Planungsrecht* vol. 5 (1985). pp. 314-316.

Vygen, H. Air Pollution Control: Success of East-West Co-operation. *Environmental Policy and Law* vol. 15 (1986). pp. 6-8.

Wassermann, U. Economic Commission for Europe: Air Pollutants. *Journal of World Trade Law* vol. 17 (1983). pp. 533-535.

Weber, A. Rechtsfragen der grenzüberschreitenden Luftverschmutzung. *In Recht und Wirtschaft* (H. Achenbach *et al.*, eds., Cologne 1985) pp. 55-72.

Wetstone, G. S. Long-range Transboundary Air Pollution: Executive Body, First Session. *Environmental Policy and Law* vol. 11 (1983). pp. 26-28.

Wetstone G. S. Acid Rain: The International Perspective. *Environmental Policy and Law* vol 11 (1983). pp. 31-33.

Wetstone, G. S. and Rosencranz, A. Acid Rain in Europe and North America: National Responses to an International Problem (Washington, D.C., 1983). 244 pp. German translation: Weltbedrohung Saurer Regen (Freiburg, 1985).

Wolfrum, R. Die grenzüberschreitende Luftverschmutzung im Schnittpunkt von nationalem Recht und Völkerrecht. *Deutsches Verwaltungsblatt* vol. 99 (1984). pp. 493-501.

A trilingual text of the Convention has been issued as document E/ECE/1010, and trilingual texts of the 1984 and 1985 Protocols as documents ECE/EB.AIR/11 and ECE/EB.AIR/12.

The English text of the Convention is reproduced *in*

International Legal Materials vol. 18 (1979). p. 1442;
Environmental Policy and Law vol. 6 (1980). p. 37;
International Protection of the Environment: Treaties and Related Documents (B. Rüster, B. Simma & M. Bock (eds.), Dobbs Ferry/N.Y., 1982) vol. XXVIII. p. 341;
Selected Multilateral Treaties in the Field of the Environment (A. C. Kiss (ed.), Nairobi, 1983). p. 519; and *in*
International Environmental Law: Multilateral Treaties (W. Burhenne (ed.), Berlin, 1972-1988).

The French text of the Convention is reproduced *in*

Revue Juridique de l'Environnement vol. 5 (1981) p. 64;
Recueil de traités multilatéraux relatifs à la protection de l'Environnement (A. C. Kiss (ed.), Nairobi, 1982). p. 536; and *in*
Revue Générale de Droit International Public vol. 87 (1983). p. 933.

The text of the Convention in seven languages (English, French, Italian, Danish, German, Dutch and Greek) is reproduced *in* the

Official Journal of the European Communities No. L 171 (27.6.1981). p. 13.

The English text of the 1984 EMEP Protocol is reproduced *in*

International Legal Materials vol. 24 (1985). p. 484; and *in*
International Environmental Law: Multilateral Treaties (W. Burhenne (ed.), Berlin, 1972-1988).

The text of the Protocol in nine languages (English, French, Italian, Danish, German, Dutch, Greek, Portuguese and Spanish) is reproduced *in* the

Official Journal of the European Communities No. L 181 (4.7.1986). p. 2.

The text of the 1985 Protocol in English and French is reproduced *in* the

WHO/OMS *International Digest of Health Legislation/Recueil International de Législation Sanitaire* vol. 36 (1985) No. 4. p. 799; and *in*
International Environmental Law: Multilateral Treaties (W. Burhenne (ed.), Berlin, 1972-1988).

The English text of the Draft Protocol on Nitrogen Oxides is reproduced *in*

Environmental Policy and Law vol. 17 (1987). pp. 259-261.

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